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## **Preliminary study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas\***

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\* The present document was submitted late owing to the holding of the sixth session of the Advisory Committee from 17 to 21 January 2011.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–3	3
II. Identification of discriminated and vulnerable groups working in rural areas .....	4–18	3
A. Overview of the situation of peasants and other people working in rural areas .....	4–5	3
B. Smallholder farmers.....	6–9	4
C. Landless people working as tenant farmers or agricultural labourers.....	10–12	5
D. People living from traditional fishing, hunting and herding activities.....	13–16	6
E. Peasant women .....	17–18	7
III. Causes of discrimination and vulnerability of peasants and other people working in rural areas.....	19–40	8
A. Expropriation of land, forced evictions and displacement.....	20–24	8
B. Gender discrimination .....	25–27	10
C. Absence of agrarian reform and rural development policies, including irrigation and seeds .....	28–35	11
D. Lack of a minimum wage and social protection .....	36–38	12
E. Repression and criminalization of movements protecting the rights of people working in rural areas .....	39–40	13
IV. Protection of the rights of peasants and other people working in rural areas under international human rights law.....	41–57	14
A. International Covenant on Economic, Social and Cultural Rights.....	42–50	14
B. International Covenant on Civil and Political Rights .....	51–53	16
C. Rights of women living in rural areas.....	54–55	17
D. Rights of indigenous people .....	56–57	18
V. Ways and means to advance the rights of peasants and other people working in rural areas.....	58–67	18
A. Implementation of existing international norms .....	59–61	18
B. Addressing normative gaps under international human rights law .....	62–63	19
C. New legal instrument on the rights of people working in rural areas .....	64–67	19
VI. Conclusion .....	68–70	20

## I. Introduction

1. Hunger, like poverty, is still predominantly a rural problem, and in the rural population, it is those who produce food who suffer disproportionately. In a world in which more than enough is produced to feed the entire world population, more than 700 million people living in rural areas continue to suffer from hunger. Describing this situation in its preliminary study on discrimination in the context of the right to food (A/HRC/13/32), the Advisory Committee identified peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers as among the most discriminated and vulnerable groups.

2. Responding to this evidence, the Human Rights Council, in its resolution 13/4, mandated the Advisory Committee to undertake a preliminary study on ways and means to further advance the rights of people working in rural areas, including women, in particular smallholders engaged in the production of food and/or other agricultural products, including from directly working the land, traditional fishing, hunting and herding activities, and to report thereon to the Council at its sixteenth session.

3. A preliminary study was prepared by the drafting group on the right to food, established by the Advisory Committee at its first session and comprising José Bengoa Cabello, Chinsung Chung, Latif Hüseyinov, Jean Ziegler and Mona Zulficar,<sup>1</sup> for consideration and endorsement by the Committee at its sixth session. The present preliminary study is being submitted by the Committee to the Human Rights Council for consideration at its sixteenth session.

## II. Identification of discriminated and vulnerable groups working in rural areas

### A. Overview of the situation of peasants and other people working in rural areas

4. The United Nations Millennium Development Project Task Force on Hunger has shown that 80 per cent of the world's hungry live in rural areas.<sup>2</sup> Of the 1 billion people who suffer from extreme poverty in the world today, 75 per cent live and work in rural areas.<sup>3</sup> This situation was compounded by the global food crisis of 2008 and 2009. Today, 50 per cent of the world's hungry are smallholder farmers who depend mainly or partly on agriculture for their livelihoods. Some 20 per cent of those suffering from hunger are landless families who survive as tenant farmers or poorly paid agricultural labourers who often have to migrate from one insecure, informal job to another; 10 per cent of the world's hungry live in rural communities from traditional fishing, hunting and herding activities. As much as 70 per cent of the world's hungry are women and a great majority of them work in agriculture.

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<sup>1</sup> The members of the drafting group on the right to food thank Christophe Golay and Ioana Cismas of the Geneva Academy of International Humanitarian Law and Human Rights for their important input during the drafting of the present study.

<sup>2</sup> Pedro Sanchez and others, *Halving Hunger: It Can Be Done*, UN Millennium Project 2005, Task Force on Hunger (London, 2005).

<sup>3</sup> International Fund for Agricultural Development (IFAD), *Rural Poverty Report 2001: The Challenge of Ending Rural Poverty*, 2001. Available from [www.ifad.org/poverty/](http://www.ifad.org/poverty/).

5. In the present study, the Advisory Committee focuses on the rights of the most vulnerable people working in rural areas, in particular on those of smallholder farmers, landless workers, fisher-folk, hunters and gatherers. The Committee does not focus on the rights of other people working in rural areas, such as those working in the business industry or public administration.

## B. Smallholder farmers

6. Around 50 per cent of the world's hungry live on small plots of land and produce crops for subsistence and/or sale on local markets. Most of them cannot produce enough to feed themselves, essentially because they do not have sufficient access to productive resources such as land, water and seeds. Two thirds of smallholder farmers live on remote and marginal lands in environmentally difficult conditions, such as in mountainous areas or areas threatened by drought and other natural disasters, while good, fertile land tends to be concentrated in the hands of wealthier landowners. For example, most of the fertile lands of central Guatemala are part of huge plantations, while the majority of smallholder farmers and indigenous people are left to cultivate the steep slopes of the country's mountainous regions.<sup>4</sup> The same is true in many other countries, such as Bolivia (Plurinational State of)<sup>5</sup> and Ethiopia.<sup>6</sup>

7. In Guatemala, land ownership is highly concentrated: 2 per cent of the population owns up to 80 per cent of agricultural land, while 90 per cent of small farmers survive on less than 1 hectare.<sup>7</sup> Hunger and malnutrition levels in Guatemala have been found to be closely linked to the quantity of land held; children of families possessing less than two *manzanas*<sup>8</sup> of land are 3.2 times more likely to be malnourished than families possessing more than five *manzanas*.<sup>9</sup> Poor subsistence farmers lack access to sufficient, good quality land and survive on *microfincas* (smallholdings) of less than one hectare of unproductive land, although they really need 25 hectares of fertile land to feed their families adequately. As a consequence of extreme inequality in access to land, indigenous people and poor peasant farmers or agricultural workers living in rural areas account for the large majority of the hungry and malnourished.<sup>10</sup>

8. The situation is similar in Bolivia (Plurinational State of), where poor small-scale farmers own only 1.4 per cent of the cultivated land, while the wealthiest 7 per cent of Bolivian landlords own 85 per cent of cultivated land.<sup>11</sup> In the west, the poor and hungry are mostly indigenous people, living in rural areas and struggling to survive from small-scale and subsistence farming on the cold, windy plateau of the *altiplano*. Most people have very small landholdings, barely large enough for subsistence. Most agricultural work is done by hand with little access to machinery even to plough the fields, and there has been little investment in irrigation and other infrastructure that would allow increased

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<sup>4</sup> See E/CN.4/2006/44/Add.1 and A/HRC/13/33/Add.4.

<sup>5</sup> A/HRC/7/5/Add.2, para. 14.

<sup>6</sup> E/CN.4/2005/47/Add.1, para. 11.

<sup>7</sup> Foodfirst Information and Action Network, *The Human Right to Food in Guatemala*, 2004.

<sup>8</sup> One *manzana* = 6,987 m<sup>2</sup>.

<sup>9</sup> United Nations, Common country assessment: Guatemala, 2004, p. 16.

<sup>10</sup> A/HRC/13/33/Add.4, para. 11.

<sup>11</sup> Stephan Klasen and others, "Operationalizing pro-poor growth, country case study: Bolivia", discussion paper, Universität Göttingen, Ibero-Amerika-Institut für Wirtschaftsforschung 101, Goettingen, October 2004.

production. This has resulted in very high levels of malnutrition, especially micronutrient malnutrition, among *altiplano* families because their diet is inadequate.<sup>12</sup>

9. In Ethiopia, chronic food insecurity persists in the country, which is predominantly agrarian, and poverty is significantly higher in rural areas than in urban areas.<sup>13</sup> Agriculture is still predominantly rain-dependent and only 3 per cent of irrigable land is currently irrigated, contributing to a high vulnerability to drought. Many Ethiopian farmers do not produce enough even for their own subsistence. Two thirds of household farm on less than 0.5 hectare, insufficient to support a family, and these holdings are becoming smaller and smaller owing to the fast rate of population growth.<sup>14</sup> The poorest and most destitute are now mainly dependent on wage labour in other people's fields. With few opportunities for wage labour or opportunities for off-farm employment to earn income, many people simply do not get enough to eat.

### C. Landless people working as tenant farmers or agricultural labourers

10. Approximately 20 per cent of the world's hungry are landless. Most work as tenant farmers or agricultural labourers. Tenant farmers usually have to pay high rents and have little security of possession from season to season. Agricultural labourers usually work for extremely low wages that are insufficient to feed their families, and often have to migrate from one insecure, informal job to another.<sup>15</sup> This is for example the case in Bangladesh<sup>16</sup> and India.<sup>17</sup>

11. In Bangladesh, more than two thirds of rural people are now landless (owning less than 0.2 hectares) and landlessness is increasing rapidly owing to demography and inheritance laws that divide holdings into ever smaller plots, but also to land-grabbing by powerful people.<sup>18</sup> Many of the landless work as agricultural labourers, often for pitiful wages, and the rest are sharecroppers who work the land of absentee landlords in exploitative relationships in which 50 per cent of the crop must be passed back to the landlord. Seasonal crises of hunger are still experienced in the northern, more arid regions of Bangladesh, particularly during the *monga*, the lean season between crops, when no agricultural work is available for landless labourers. Increasing landlessness is contributing to migration to urban areas in search of work, forcing many people to live in the terrible conditions of the slums of Dhaka.

12. In India, the hungry and malnourished are primarily children, women and men living in rural areas and dependent on agriculture, working as casual workers but also as sharecroppers and tenant or marginal farmers with less than one hectare of land.<sup>19</sup> Agricultural wages are very low and increasingly precarious, the payment of minimum wages is always enforced, and many people lack work during the agricultural lean season.

<sup>12</sup> United Nations Development Programme (UNDP), *Objetivos de desarrollo del milenio. La Paz, situación actual, evaluación y perspectivas*, 2007.

<sup>13</sup> International Food Policy Research Institute, *Ending the Cycle of Famine in Ethiopia* (Washington, D.C., 2003).

<sup>14</sup> Rahmato D. and Kidanu A., "Consultations with the Poor: A study to inform the World Development Report (2000/01) on Poverty and Development", National Report, Ethiopia, 1999.

<sup>15</sup> IFAD, *Rural Poverty Report 2001*.

<sup>16</sup> E/CN.4/2004/10/Add.1, para. 9.

<sup>17</sup> E/CN.4/2006/44/Add.2, paras. 10-11.

<sup>18</sup> Rahman A.T.R., *Human Security in Bangladesh: In Search of Justice and Dignity* (Bangladesh, UNDP, 2002).

<sup>19</sup> Sujoy Chakravarty and Sajal A. Dand, *Food Insecurity in India: Causes and Dimensions*, April 2005. Available from [www.iimahd.ernet.in/publications/data/2005-04-01sujoy.pdf](http://www.iimahd.ernet.in/publications/data/2005-04-01sujoy.pdf).

In some States, feudalistic patterns of land ownership persist, despite legal abolition and the official Land Ceilings Act that aimed to limit land concentration. During the 1990s, evidence suggests that the concentration of land ownership increased, and many more households became landless and dependent on casual agricultural labour (45 per cent of households).<sup>20</sup> Scheduled castes and tribes suffer most from hunger and malnutrition in India, making up 25 per cent of the rural population but 42 per cent of the poor.<sup>21</sup> This is largely due to discrimination, as many are expected to work as agricultural labourers without being paid, and many are held in debt bondage by their higher-caste employers.

#### **D. People living from traditional fishing, hunting and herding activities**

13. Around 10 per cent of the world's hungry subsist through fishing, hunting and herding activities. In many countries, the traditional way of life of these people and their means of livelihood are threatened by competition over productive resources, leading to increasing hunger and malnutrition.

14. There are two types of fish production: fish captured in the wild from the sea or inland waters (capture fisheries) and fish farmed in the sea or inland waters (aquaculture). Both types are driven to industrialization, privatization and export orientation, which end up depriving local people of their traditional rights of access to fishing resources.<sup>22</sup> In 2004, for example, the United Nations Environment Programme reported that the European Union paid \$230 million in subsidies to its fishing fleets to allow them to take advantage of fishing rights obtained in the Argentine exclusive economic zone.<sup>23</sup> In another agreement with Senegal, the European Union managed to obtain fishing rights for endangered or locally used species, thereby threatening the food security of thousands of local fishing communities.<sup>23</sup> Fish farming is mostly located in developing countries (84 per cent of global production is in low-income food deficit countries), particularly in China, India, Indonesia and the Philippines, and it is frequently promoted on the promise that it will relieve pressure on wild fish stocks, improve food security and provide livelihoods for the poor. Fish farming does not, however, automatically relieve exploitation of marine stocks, given that many farmed fish are, paradoxically, fed with marine fish.<sup>24</sup> Indeed, in most cases, fish farming has a negative impact on access to food for traditional fishing communities.<sup>25</sup>

15. In many parts of the world, people subsisting on hunting activities in forest and hill areas are also increasingly marginalized. Many have lost their access to traditional forest livelihoods and food resources following the creation of forest reserves or because of development projects such as dams, power plants, coalmines and mineral industries. Many remain without access to food or to Government services. In India, for example, where non-

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<sup>20</sup> See National Sample Survey in Jayati Gosh, *Trade Liberalization in Agriculture: An Examination of Impact and Policy Strategies with Special Reference to India*, UNDP, Occasional Paper, 2005, p. 14.

<sup>21</sup> Gerard J. Gill and others, "Food security and the Millennium Development Goal on hunger in Asia", Working paper 231 (Overseas Development Institute, London, 2003). Available from [www.odi.org.uk/resources/download/1266.pdf](http://www.odi.org.uk/resources/download/1266.pdf).

<sup>22</sup> A/59/385, paras. 33-60.

<sup>23</sup> United Nations Environment Programme, *Fisheries and the Environment. Fisheries Subsidies and Marine Resources Management: Lessons learned from Studies in Argentina and Senegal* (Geneva, United Nations, 2002).

<sup>24</sup> Rosamond L. Naylor and others, "Effect of Aquaculture on World Fish Supplies", *Nature*, vol. 405, 29 June 2000, pp. 1017-1024.

<sup>25</sup> Susan C. Stonich and Isabel De La Torre, "Farming shrimp, harvesting hunger: the costs and benefits of the blue revolution", *Backgrounders*, vol. 8, no.1 (winter 2002).

governmental organizations and academics estimate that dam projects alone have displaced up to 30 million people in the last decades,<sup>26</sup> between 40 and 50 per cent of the displaced are tribal people, most of them living from hunting activities in forest and hill areas, even though they make up only 8 per cent of the population.

16. In many countries, conflicts are also increasing between pastoralists and crop farmers, since farmers tend their own small animals and are less eager to allow pastoralists to graze their herds in the fields after harvest. In Ethiopia, for example, pastoral livelihoods are becoming increasingly vulnerable; pastoralists are affected by the lack of water, land degradation and competition with agriculturalists, and poverty has been compounded by the collapse of the export market for livestock to Arab nations following an outbreak of Rift Valley fever. In the Niger, these issues are addressed in the *code rural*, which set out clear rules for access to resources and sets up clearly marked corridors and areas of pasture in order to minimize conflict.<sup>27</sup> The means to implement the *code rural* are, however, sorely lacking and criticism of the bias towards agriculture in it has given rise to calls for a new *code pastoral* that focuses more attention on the different and very specific problems of nomadic and semi-nomadic pastoralists.<sup>28</sup>

## E. Peasant women

17. Women play a crucial role in the food security of households, producing between 60 and 80 per cent of food crops in developing countries and earning incomes to feed their families.<sup>29</sup> In sub-Saharan Africa, women are estimated to contribute up to 80 per cent of labour for food production; Asian women produce 50 per cent of food products. South Asian women play a decisive role in rice production, mostly in informal labour schemes. Although agricultural production in Latin America has recently declined, women continue to contribute to approximately 40 per cent of the internal market's agricultural supply. Women, however, account for 70 per cent of the world's hungry and are disproportionately affected by malnutrition, poverty and food insecurity. Globally, women cultivate more than 50 per cent of all food grown, yet they rarely receive any recognition for their work. Indeed, many are not even paid.

18. Peasant women in particular often face discrimination in gaining secure access to and control over other productive resources, such as land, water and credit, because they are often not recognized as producers or juridical equals. In understanding the problems faced by peasants and the discrimination they suffer, it is especially important to note the special situation faced by women peasants. While the proportion of women heads of rural household continues to grow (more than 30 per cent in some developing countries), less than 2 per cent of all land is owned by women.<sup>30</sup> Customs and traditions in many parts of the world limit women's equal access to productive resources. In some countries,

<sup>26</sup> Harsh Mander and others, "Dams, Displacement, Policy and Law in India", Displacement, Resettlement, Rehabilitation, Reparation and Development, contributing paper (Cape Town, World Commission on Dams, 1999).

<sup>27</sup> E/CN.4/2002/58/Add.1, para. 60.

<sup>28</sup> Nicoletta Avella et Frédéric Reounodji, *La législation foncière pastorale au Niger et au Tchad. Une analyse comparative*, « Savanes africaines en développement : innover pour durer », 20-23 avril 2009, Garoua, Cameroun.

<sup>29</sup> Food and Agriculture Organization of the United Nations (FAO), *Gender Food Security*, Synthesis report of regional documents (Rome, 2004).

<sup>30</sup> Isabelle Rae, *Women and the Right to Food: International Law and State Practice* (FAO, Rome 2008).

discrimination is still codified in national laws; in others, it is part of customary law (see paragraphs 25-27 below).

### III. Causes of discrimination and vulnerability of peasants and other people working in rural areas

19. The main causes of discrimination and vulnerability of peasants and other people working in rural areas are closely linked to human rights violations: (a) expropriation of land, forced evictions and displacement; (b) gender discrimination; (c) the absence of agrarian reform and rural development policies; (d) the lack of minimum wages and social protection; and (e) the criminalization of movements defending the rights of people working in rural areas.

#### A. Expropriation of land, forced evictions and displacement

20. From 1995 to 2005, Foodfirst Information and Action Network International worked on more than 100 cases of violations of the right to food, and concluded that the majority of them were related to expropriation of land, forced evictions and displacements.<sup>31</sup> Most urgent appeals made by the Special Rapporteur on the right to food are also based on allegations of expropriation of land, forced evictions and forced displacements.<sup>32</sup> The recent phenomenon of global “land-grab” has added another dimension to these concerns as Governments and companies seek to buy and lease large tracts of productive land in other countries, to food to be exported back to their countries, or to grow biofuels to fill the petrol tanks of those in the global north.<sup>33</sup>

21. In many countries, the recurrence of forced evictions in the last 20 years is closely linked to a long history of expropriation of productive resources from smallholder farmers and local communities. In Guatemala, for example, there are often multiple claims to the same land following a history of land expropriation by powerful landowners. In the past 10 years, the response of the Government to land occupations has been the use of force.<sup>34</sup> For example, local and international non-governmental organizations reported more than 30 forced evictions in 2004, affecting 1,500 families.<sup>35</sup> In the case of the Nueva Linda farm (Champerico, Retalhuleu), it was alleged that, while some officials were negotiating a peaceful evacuation with the representatives of 22 communities who had occupied the land three years earlier, the Civil National Police intervened violently, leaving 9 dead, over 40 injured and 13 detained, as well as the destruction of the communities’ crops and houses.<sup>36</sup> In another case recorded at El Maguey farm (Fraijanes), it was alleged that a group of 86 peasant families had been forcibly evicted from their land by the police and the army on several occasions, their crops and irrigations system destroyed, despite the recognition that

<sup>31</sup> Jennie Jonsén, “Developing Indicators for the Right to Food. Lessons learned from the case work of FIAN International”, paper presented at the expert symposium on the theme “Measuring developments in the realization of the right to food by means of indicators: the IBSA-procedure”, 22-23 May 2006, Mannheim, Germany, 2006, pp.115-117.

<sup>32</sup> See for example A/HRC/4/30/Add.1.

<sup>33</sup> A/HRC/13/33/Add.2.

<sup>34</sup> A/HRC/13/33/Add.4, paras. 18-20.

<sup>35</sup> Colectivo de Organizaciones Sociales, *Otra Guatemala es Posible: Acuerdos de Paz, Unidad y Lucha de las Organizaciones Sociales*, 2004; Amnesty International, *Memorandum to the Government of Guatemala: Amnesty International’s concern regarding the current human rights situation*, AMR 34/014/2005.

<sup>36</sup> Foodfirst Information and Action Network (see footnote 7).



they owned the land in a governmental agreement dated 7 April 2003 and a Constitutional Court decision dated 4 May 2004.<sup>36</sup> In 2005, Amnesty International noted that, “A particular characteristic of agrarian disputes in Guatemala is that the full weight of the law and judicial system is often levied in order to enforce evictions, but not to issues relating to labour rights of rural workers or land tenure of rural communities.”<sup>37</sup>

22. In many other countries, smallholder farmers are forcibly displaced from their land as a consequence of development projects, often in the case of large-scale commercial exploitation of the resources of smallholder farmers, including mining for minerals, oil or gas, logging, building dams and highways, or expanding industrial agriculture. Authorities rarely assess the likely impact of such projects or do they take timely corrective action. In India, for example, many cases of the forced displacement of rural communities without adequate resettlement and rehabilitation have been documented. The case of the Narmada dams is of particular concern; despite clear directions by the Supreme Court in 2000,<sup>38</sup> thousands of affected people have still not been adequately resettled and rehabilitated. In 2005, a report by the Indian People’s Tribunal on Environment and Human Rights found that 11,000 families in Madhya Pradesh, 1,500 families in Maharashtra and 200 families in Gujarat were still to be rehabilitated, although their villages had already been submerged.<sup>39</sup> In November 2008, given that the situation had not improved, 20,000 people affected by the Narmada dams participated in a march for displaced peoples’ rights and dignity in Khandwa, Madhya Pradesh.<sup>40</sup>

23. The global “land grab” (see paragraph 21 above) has the potential to involve an unprecedented amount of land expropriation, forced evictions and displacements.<sup>41</sup> With the expansion of biofuels production since 2003 and the global food crisis in 2008, the revival of the strategy of foreign investors, both Governments and companies, to buy or secure long-term leases of productive land in other countries can have detrimental effects on local farmers if the land they use is sold or leased to foreign investors.<sup>42</sup>

24. The most famous case of the above-mentioned phenomenon was the deal struck between the company Daewoo and the Government of Madagascar on a lease of 1.3 million hectares of land, a third of the arable land of that country. The same phenomenon has been witnessed in many other countries; today, an estimated number of 180 land deals exist at varying stage of negotiation.<sup>42</sup> In five countries of sub-Saharan Africa only, a total of 2.5 million hectares of land were allocated between 2004 and 2008.<sup>43</sup> It is estimated that the Republic of Korea signed deals for 690,000 hectares, the United Arab Emirates for 400,000 hectares in the Sudan, and that a group of Saudi investors are spending \$100 million in Ethiopia to grow wheat, barley and rice on land leased to them by the Government.<sup>44</sup> In 2009 alone, investors are said to have expressed interest in buying or leasing an additional

<sup>37</sup> Amnesty International, *Memorandum to the Government of Guatemala*.

<sup>38</sup> Supreme Court, *Narmada Bachao Andolan v. Union of India*, 2000.

<sup>39</sup> Report of the Indian People’s Tribunal on Environment and Human Rights, 2005. Available from [www.narmada.org/IPT\\_Report.pdf](http://www.narmada.org/IPT_Report.pdf).

<sup>40</sup> See [www.narmada.org](http://www.narmada.org) (civil society) and [www.nvda.nic.in](http://www.nvda.nic.in) (Government).

<sup>41</sup> A/HRC/13/33/Add.2.

<sup>42</sup> Carin Smaller and Howard Mann, “A thirst for distant lands: foreign investment in agricultural land and water” (Winnipeg, International Institute for Sustainable Development, 2009).

<sup>43</sup> Lorenzo Cotula and others, *Land grab or development opportunity? Agricultural investment and international land deals in Africa* (London/Rome, IIED/FAO/IFAD, 2009).

<sup>44</sup> “Outsourcing-s third wave. Rich food importers are acquiring vast tracts of poor countries’ farmland. Is this beneficial foreign investment or neocolonialism?”, *The Economist*, 21 May 2009. Available from [www.economist.com/node/13692889](http://www.economist.com/node/13692889).

42 million hectares of land, of which 75 per cent was in Africa.<sup>45</sup> Such practices, which only existed at a comparable level during the colonial era, will further increase the vulnerability of and discrimination against local peasants.

## **B. Gender discrimination**

25. Women living and working in rural areas often face discrimination in their access to and control over other productive resources, such as land, water and credit. In many countries, they suffer multiple discriminations: because they are women, poor, rural residents and indigenous, and rarely own land or other assets. De jure discrimination against women remains for example institutionalized in Guatemala, where article 139 of the Labour Code describes rural women as “helpers” of male agricultural workers rather than as workers entitled to receive their own salary. As a consequence, it is reported that many landowners do not even pay women for their work, since they are considered “helpers” of their husbands.<sup>46</sup>

26. Family law (which restricts a married women's capacity to inherit equally) and succession law (which has been shown to restrict women's inheritance rights) have been regarded as the two sets of laws with practices that have discriminatory effects in excluding women from claiming land rights. In many countries, discrimination persists in customary laws, despite strong constitutional and legislative frameworks. In Ethiopia, for example, women are formally entitled by the Constitution to affirmative action and equal rights (art. 35 (3)). These include equal rights over property and land, including inheritance, and rights to equality in employment (art. 35 (7 and 8)). Federal legislation, including the 1997 Rural Land Administration Proclamation and the 2001 Family Code, and official policy outlines the de jure and de facto equality between men and women. These formal rights, however, are not enforced in practice and peasant women are the most vulnerable to hunger and poverty as a result of discrimination.<sup>47</sup> Women make up 50 per cent of the agricultural workforce in Ethiopia, yet traditionally have no right to inherit the land they work on, and little access to credit, agricultural inputs or extension training. In the words of Meaza Ashenafi, Executive Director of the Ethiopian Women Lawyers Association, “almost in all regions, women do not have any access to land whatsoever. They don't have the right to inherit, and the only option is to get married and have a husband. But when the husband dies, they are also kicked off their land.”<sup>48</sup>

27. A similar situation persists in Bangladesh, where women are protected and guaranteed equality by the law, but existing social values, reinforced by religion, permit discrimination against women. Under Islamic law, women have a right to only half the land to which their male siblings are entitled; the Hindu tradition accords no land to women in inheritance custom. As a result of discrimination, malnutrition levels show a marked gender disparity, with women most profoundly affected in rural areas.<sup>49</sup>

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<sup>45</sup> World Bank, *Rising Global Interest in Farmland. Can It Yield Sustainable and Equitable Benefits?*, September 2010, p. xiv.

<sup>46</sup> Foodfirst Information and Action Network (see footnote 7).

<sup>47</sup> UNICEF, *The Situation of Ethiopian Children and Women: A Rights-Based Analysis* (Addis Ababa, 2002).

<sup>48</sup> E/CN.4/2005/47/Add.1, para.22.

<sup>49</sup> International Monetary Fund, *Bangladesh: Interim Poverty Reduction Strategy Paper*, No. 03/177 (Washington, D.C., 2003).

### C. Absence of agrarian reform and rural development policies, including irrigation and seeds

28. To protect the rights of peasants and other people working in rural areas, more attention needs to be paid to agrarian reforms that benefit landless peasants and small-scale land holders and promote security of tenure and access to land.<sup>50</sup> Agrarian reforms are successful when land reform radically reduces inequalities in land distribution and is accompanied by sufficient access to other inputs, including water, credit, transport, extension services and other infrastructure.

29. While the “death” of agrarian reform was proclaimed in the 1970s, and few efforts were made to conduct land reform programmes in the 1980s and early 1990s, land reform returned to the international agenda in 1996. In the Rome Declaration on World Food Security and the World Food Summit Plan of Action, land reform was a key part of States’ commitments.<sup>51</sup> In the Declaration of the International Conference on Agrarian Reform and Rural Development, organized by FAO and the Government of Brazil in March 2006, 95 States recognized the importance of establishing appropriate land reform to secure access to land for marginalized and vulnerable groups, and of adopting adequate legal frameworks and policies to promote traditional and family agriculture.<sup>52</sup>

30. Land reforms in Japan, the Republic of Korea, Taiwan Province of China, China and Cuba have had a significant impact on reducing poverty and hunger and increasing economic growth. In India, the States with the steepest declines in poverty from 1958 to 1992 were those that implemented land reform.<sup>53</sup> More recently, the move towards transformative and redistributive agrarian reform has been successfully chosen by the Government of Bolivia (Plurinational State of). Despite the re-emergence of land reform on international and national agendas, the World Bank continues to promote models of agrarian reform that emphasize the market and are compatible with the Washington Consensus. The “market-assisted” or “negotiated” models of land reform of the World Bank seek to overcome elite resistance to land reform by offering credit to landless or land-poor farmers so that they can buy land at market rates from large landholders, with the State playing a part only in mediation and the provision of credit.<sup>54</sup> These models have been bitterly criticized by non-governmental organizations and social movements.<sup>55</sup>

31. Well-formulated rural development policies are also essential to fulfil the rights of people working in rural areas. In the past three decades, however, support for agriculture has dramatically decreased. Many indebted developing countries have been forced to reduce their support for small farmers and liberalize their agriculture, under strong pressure from the International Monetary Fund and the World Bank. At the same time, between 1980 and 2004, the percentage of official development aid directed to agriculture dropped from 13 per cent to 3.4 per cent, or from \$2.63 billion to \$1.9 billion.<sup>56</sup> This situation

<sup>50</sup> A/65/281.

<sup>51</sup> See FAO, Report of the World Food Summit, 13–17 November 1996 (WFS 96/REP), part one, appendix..

<sup>52</sup> FAO, *Report of the International Conference on Agrarian Reform and Rural Development, Pôrto Alegre, Brazil, 7–10 March 2006* (C 2006/REP), appendix G.

<sup>53</sup> IFAD, *Rural Poverty Report 2001*.

<sup>54</sup> Peter Rosset, “Tides Shift on Agrarian Reform: New Movements Show the Way” (winter, 2001). Available from [www.thirdworldtraveler.com/Reforming\\_System/Agrarian\\_Reform.html](http://www.thirdworldtraveler.com/Reforming_System/Agrarian_Reform.html).

<sup>55</sup> “Land for those who work it, not just for those who can buy it”, Final declaration of the international seminar on the negative impacts of World Bank market-based land reform policy, April 2002.

<sup>56</sup> Jean Feyder, Ambassador of Luxembourg, “Panel on African Food Security: Lessons from the Recent Global Food Crisis”, forty-seventh executive session of the Trade and Development Board, Geneva,

resulted in the unprecedented neglect of State policies in favour of small-scale agriculture, with detrimental effects on peasants in almost all developing countries, and led to the world food crisis of 2008.<sup>57</sup>

32. The failure of States to harness water resources for both irrigation and drinking water (for people and livestock) is another key factor explaining the vulnerability of people working in rural areas. In Ethiopia and the Niger, for instance, 3 and 10 per cent of agricultural cultivation is irrigated, respectively. Although water resources are available in these countries, these have been little exploited, owing to the severe shortage of financial resources to invest in irrigation, which has high costs, particularly for works on a large scale. There have been some impressive although limited efforts at promoting small-scale irrigation and providing wells in some villages.

33. Together with land and water, peasants need seeds to secure their work and ensure food security. According to the International Convention for the Protection of New Varieties of Plants, they are free to use their traditional seeds for replanting, selling or exchange. At the second World Seed Conference hosted by FAO in September 2009, participants stressed the importance of protecting access to seeds in agriculture. However, this freedom is now threatened by a few transnational corporations that control the seed market and their patents on improved or genetically modified seeds.<sup>58</sup> A third of the entire global seed market is in the hands of just 10 corporations, including Aventis, Monsanto, Pioneer and Syngenta. Monsanto alone controls 90 per cent of the global market in genetically modified seeds.

34. The above-mentioned transnational corporations hold the intellectual property rights to improved or genetically modified seeds, which gives them the right to prevent peasants from building up their own supplies. Peasant families who often received seeds as part of food aid programmes are now forced to buy new seeds every year. The transnational corporations began establishing their control in this area by creating seeds that were programmed to self-destruct (the so-called “terminator” seeds); then, in the face of hostile public opinion, they changed strategy and today defend their patents with an increasing number of legal actions against peasants who use their seeds without paying royalties. Monsanto, for example, has brought hundreds of legal actions against peasants in recent years.

35. Every year, thousands of peasants commit suicide because they can no longer afford the seeds that they need to feed their families. In India alone, it is estimated that 200,000 peasants have committed suicide since 1997, largely because they had become dependant on seeds supplied by transnational corporations and had amassed debts that they could not repay.<sup>59</sup>

#### **D. Lack of a minimum wage and social protection**

36. As discussed above, landless people who work in rural areas are significantly affected by the lack of social protection nets and of policies stipulating a minimum wage. Agricultural labourers work for extremely low wages, which are insufficient to feed their

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30 June 2009.

<sup>57</sup> Christophe Golay, “The Food Crisis and Food Security: Towards a New World Food Order?”, *Revue internationale de politique de développement*, vol. 1, 2010, pp. 215-232.

<sup>58</sup> A/64/170.

<sup>59</sup> Vandana Shiva, “From Seeds of Suicide to Seeds of Hope: Why Are Indian Farmers Committing Suicide and How Can We Stop This Tragedy?”, *The Huffington Post*, 28 April 2009. Available from [www.huffingtonpost.com/vandana-shiva/from-seeds-of-suicide-to\\_b\\_192419.html](http://www.huffingtonpost.com/vandana-shiva/from-seeds-of-suicide-to_b_192419.html).

families. Moreover, these wages have no long-term security and labourers are forced to migrate from one insecure and informal job to another.<sup>60</sup> This is the case in Guatemala<sup>61</sup> and Bolivia (Plurinational State of).

37. In Guatemala, permanent workers on the *fincas*, often tied into a *colono* system (under which landowners provide subsistence plots in exchange for labour), work for extremely low wages. Landowners often avoid paying legal entitlements by dismissing workers repeatedly to keep them on non-permanent contract status,<sup>62</sup> and often dismiss workers who negotiate for better conditions.<sup>63</sup> Church organizations, such as that led by Álvaro Ramazzini, Bishop of San Marcos, help families to survive by providing food donations and help workers to bring cases to local courts, although workers rarely win, and even when they do, legal orders are reportedly rarely enforced. In one case, it was alleged that, in 1997, immediately after having founded a union, 32 male and female workers were dismissed from the Nueva Florencia farm (Colomba, Quetzaltenango) without compensation. After many years of legal proceedings, and despite two final decisions of the Constitutional Court in 2000 and 2003 ordering the reinstatement of the workers and the reimbursement of their unpaid salaries, the workers and their families are still without work.<sup>64</sup>

38. In Bolivia (Plurinational State of), despite impressive efforts by the new Government, many agricultural workers on large estates still work in feudal conditions of semi-slavery or debt-bondage. Forced labour, including situations of debt bondage, is still practiced by the private sector, including the sugar cane industry, the Brazil nut industry and on private ranches (*haciendas*) in the region of the Chaco.<sup>65</sup> Of particular concern is the situation of forced labour that the Guaraní people have to endure on some private ranches in the provinces of Santa Cruz, Chuquisaca and Tarija, in the Chaco region. Since they are paid extremely low wages that do not cover their basic living costs, they are forced to rely on credit from their employers. In addition, women and children are expected to work, but are not paid at all.

## **E. Repression and criminalization of movements protecting the rights of people working in rural areas**

39. People working in rural areas, and in particular peasants, have always organized themselves to fight discrimination and exploitation, beginning at the local level and growing to form national movements. In Canada, for example, provincial farmers' unions long worked in their respective provinces to protect family farming against the industrialization of agriculture, until they merged in 1969 to create the National Farmers' Union. In Brazil, the Landless Worker's Movement emerged in 1984 out of frustration at the extreme concentration of land in the hands of rich landowners (*latifundios*), the practice of *grillagem* (land-grabbing) and the ongoing modernization and liberalization of agriculture. Hundred of organizations did the same, until, in 1993, they created the

<sup>60</sup> IFAD, *Rural Poverty Report 2001*.

<sup>61</sup> A/HRC/13/33/Add.4, paras. 27-30.

<sup>62</sup> World Bank, *Guatemala: Poverty in Guatemala*, 2003, p. 52.

<sup>63</sup> Foodfirst Information and Action Network (see footnote 7).

<sup>64</sup> *Ibid.* See also Foodfirst Information and Action Network, *Guatemala: Harassment of illegally dismissed workers from the Nueva Florencia Farm in 1997*, 6 February 2009.

<sup>65</sup> Bhavna Sharma, *Contemporary Forms of Slavery in Bolivia* (London, Anti-Slavery International 2006).

international movement of peasants, La Via Campesina, to protect their rights and promote agricultural policies and land reforms in favour of small farmers.<sup>66</sup>

40. Since 2001, when La Via Campesina began to monitor the human rights situation of peasants worldwide, it became obvious that, in many countries, when peasants organize themselves to claim their rights, they are often treated as criminals, arbitrarily arrested or detained, or become the victims of torture or summary executions by the State or private police forces.<sup>67</sup> In 2007, the Special Representative of the Secretary-General on human rights defenders concluded that peasant group leaders were often criminalized, and that the second most vulnerable group when it came to the danger of being killed for their activities in the defence of human rights were defenders working on land rights and natural resources.<sup>68</sup> In the Philippines, for example, three peasant leaders were murdered between November 2008 and June 2009: Vicente Paglinawan, Vice President of the National Coordination of peasant groups for the island of Mindanao; Eliezer Billanes, secretary-general of a peasants' union; and Renato Penas, Vice President of the National Coalition of Peasant Organizations.<sup>69</sup> La Via Campesina commemorates two events each year: the 1996 massacre of 19 landless peasants at Eldorado do Carajas (Brazil), on 17 April, and the death of Lee Kyun Hae, a Korean peasant who stabbed himself to death during a massive protest against the World Trade Organization in Cancun (Mexico) in 2003, on 10 September.

#### **IV. Protection of the rights of peasants and other people working in rural areas under international human rights law**

41. The rights of peasants and other people working in rural areas are not subject to any specific protection under international law. Like all human beings, however, these people benefit from the protection of the international human rights instruments.<sup>70</sup> In particular, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights offer significant protection to the rights of peasants and other people working in rural areas. Women living in rural areas and indigenous people also benefit from the protection granted by the Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Declaration on the Rights of Indigenous Peoples.

##### **A. International Covenant on Economic, Social and Cultural Rights**

42. Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights protecting (a) the right to food, (b) the right to adequate housing and (c) the right to health are the most relevant with regard to the protection they offer for the rights of peasants and other people working in rural areas.

<sup>66</sup> Desmanais, A. "Via Campesina: Consolidation d'un mouvement paysan international", *Via Campesina. Une alternative paysanne à la mondialisation néo-libérale* (Geneva, Centre Europe – Tiers Monde, 2002), pp. 71-134.

<sup>67</sup> La Via Campesina, *Annual Report: Violations of Peasants' Human Rights*, 2006.

<sup>68</sup> A/HRC/4/37, paras. 45-47.

<sup>69</sup> PAKISAMA statement on the assassination of Renato Penas. Available from <http://focusweb.org/philippines/content/view/301/4/>.

<sup>70</sup> See Christophe Golay, *The Rights of Peasants*, CETIM, 2009 (available from [http://cetim.ch/en/documents/report\\_5.pdf](http://cetim.ch/en/documents/report_5.pdf)); and C. Golay, "Towards a Convention on the Rights of Peasants" in A. Paasch and S. Murphy, *The Global Food Challenge. Towards a Human Rights Approach to Trade and Investment Policies*, 2009, pp. 102-111.

## 1. Right to food

43. The right to food was proclaimed in article 25 of the Universal Declaration of Human Rights and enshrined in article 11 of the Covenant. It has been interpreted as the right of all people to “be able to feed themselves, by their own means, with dignity”. The Committee on Economic, Social and Cultural Rights, in its general comment No.12 (1999), stated that the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement (para. 6).

44. According to the Voluntary Guidelines on the Right to Food, adopted unanimously by the States Members of FAO in November 2004, the right to food protects the right of people working in rural areas to have access to productive resources or the means of production, including land, water, seeds, microcredit, forests, fish and livestock (Guideline 8). According to the same guidelines, States should pursue inclusive, non-discriminatory and sound economic, agriculture, fisheries, forestry, land use and, as appropriate, land reform policies, all of which would permit farmers, fishers, foresters and other food producers, particularly women, to earn a fair return from their labour, capital and management, and encourage conservation and sustainable management of natural resources, including in marginal areas (Guideline 2.5).<sup>71</sup>

45. The above interpretation of the right to food has been completed by work of the Committee on Economic, Social and Cultural Rights. According to the Committee, States parties to the International Covenant on Economic, Social and Cultural Rights are under an obligation to ensure sustainable access to water for agriculture and access to water and water management, and especially to sustainable techniques for gathering rain water and for irrigation, for the most disadvantaged and marginalized workers, including women.<sup>72</sup> In several of its concluding observations, the Committee also underlined the need to protect peasant families’ access to seed. For example, in its concluding observations on India, it requested the State to provide State subsidies to enable farmers to purchase generic seeds that they are able to re-use, with a view to eliminating their dependency on multinational corporations.<sup>73</sup>

## 2. Right to adequate housing

46. The right to adequate housing was proclaimed in article 25 of the Universal Declaration of Human Rights and enshrined in article 11 of the International Covenant on Economic, Social and Cultural Rights. According to the Committee on Economic, Social and Cultural Rights, it should not be interpreted in a narrow or restrictive sense that equates it with, for example, the shelter provided by merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity.<sup>74</sup> The right to

<sup>71</sup> The obligations of States to respect, protect and fulfil the right to food are defined in Guideline 8 as follows:

States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. (...) States should also provide women with secure and equal access to, control over, and benefits from productive resources, including credit, land, water and appropriate technologies.

<sup>72</sup> E/C.12/2002/11.

<sup>73</sup> E/C.12/IND/CO/5, para. 69.

<sup>74</sup> *Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22), annex IV, para. 7.*

adequate housing has been defined as the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity.<sup>75</sup>

47. According to the Committee on Economic, Social and Cultural Rights, every person, including those working in rural areas, has a right to housing, which guarantees at all times the minimum conditions of legal security of tenure, including protection against forced eviction; availability of essential services, materials, facilities and infrastructure, including access to safe drinking water and sanitation; affordability, including for the poorest, through housing subsidies, protection against unreasonable rent levels or rent increases; habitability, including protection from cold, damp, heat, rain, wind or other threats to health; accessibility for disadvantaged groups, including the elderly, children, the physically disabled and victims of natural disasters; and a suitable location, far from sources of pollution while close to schools and health-care services.<sup>76</sup>

48. The Committee also emphasized that States parties are under an obligation to put an end to forced evictions, defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”.<sup>77</sup> These forced evictions are *prima facie* incompatible with the States’ obligations under the Covenant; notwithstanding the type of tenure, all persons should possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats.<sup>77</sup>

### 3. Right to health

49. The right to health was proclaimed in article 25 of the Universal Declaration of Human Rights and recognized in article 12 of the Covenant, where it is defined as the right to enjoy the highest attainable standard of health conducive to living a life in dignity. The right to health includes the provision of adequate health care, but also the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.<sup>78</sup>

50. According to the Committee on Economic, Social and Cultural Rights, States parties to the Covenant must ensure that medical services and the underlying determinants of health are available to all, including people working in rural areas. Furthermore, States have a minimum core obligation to ensure, as a minimum and at all times, the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; access to the minimum essential food that is nutritionally adequate and safe to ensure freedom from hunger to everyone; and access to basic shelter, housing and sanitation, and an adequate supply of safe drinking water.<sup>79</sup>

## B. International Covenant on Civil and Political Rights

51. Many rights enshrined in the International Covenant on Civil and Political Rights offer protection to peasants and other people working in rural areas. Of these, the most

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<sup>75</sup> E/CN.4/2001/51, para. 8.

<sup>76</sup> *Official Records of the Economic and Social Council, 1992, Supplement No. 3 (E/1992/23)*, para. 8.

<sup>77</sup> *Ibid.*, 1998, *Supplement No. 2 (E/1998/22)*, annex IV, para. 3.

<sup>78</sup> E/C.12/2000/4, paras. 1 and 4.

<sup>79</sup> *Ibid.*, paras. 12, 36 and 43.



important are the right to life, the right to be free from arbitrary detention, the right to a fair trial and the freedoms of expression and association.

52. The Human Rights Committee underlined the fundamental importance of the right to life in its general comment No. 6, in which it stated that the protection against arbitrary deprivation of life, which is explicitly required by the third sentence of article 6 (1), is of paramount importance. The Committee considered that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity.

53. Under the Covenant, peasants and other people working in rural areas also have the right to be free from arbitrary detention and to a fair trial if they are arrested (arts. 9 and 14). Anyone deprived of his or her liberty has the right to be treated humanely (art. 10) and everyone has the right to free expression and association, the right to form and join trade unions for the protection of his or her interests and the right to peaceful assembly (arts. 19, 21 and 22). Arbitrary arrests and detentions and extrajudicial executions of peasant leaders are therefore serious violations of the Covenant, as are infringements on their freedoms of expression and association and on the right to peaceful assembly by peasant movements.

### **C. Rights of women living in rural areas**

54. One of the main aims of the Convention on the Elimination of All Forms of Discrimination against Women is to put an end to discrimination against women living in rural areas. Article 14 of the Convention specifically protects the rights of women living in rural areas against discrimination in access to productive resources, including land, and in their access to work, adequate housing and programmes for social security, health, training and education. It also stipulates that States parties should take appropriate measures to eliminate discrimination against women in rural areas and ensure their rights to organize self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment, to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform, as well as in land resettlement schemes, and to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

55. In several of its concluding comments, the Committee on the Elimination of Discrimination against Women has stated that women in rural areas should be given priority in development programmes and that the State parties should protect women's access to land against the activities of private business and against forced evictions. For example, in its concluding comments on India in 2007, it urged the State party to study the impact of mega-projects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urged it to ensure that surplus land given to displaced rural and tribal women was cultivable, and recommended that efforts should be made to ensure that tribal and rural women have individual rights to inherit and own land and property.<sup>80</sup>

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<sup>80</sup> CEDAW/C/IND/CO/3, para. 47.

## **D. Rights of indigenous people**

56. The main international Convention protecting the rights of indigenous people is the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO), ratified by 20 States. The Convention protects a large number of rights for indigenous people working in rural areas. In particular, articles 13 to 17 recognize the rights of indigenous people to their land and territories and their right to participate in the use, management and conservation of those resources. It also enshrines the right of indigenous peoples to participation and consultation regarding all uses of resources on their lands, and the prohibition of their eviction from their lands and territories.

57. To complement ILO Convention No. 169, the General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples in December 2008. The Declaration recognizes that indigenous people, both individually and collectively, have the right to the full enjoyment of all human rights and fundamental liberties recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and in international human rights law. It then goes beyond the ILO Convention in recognizing that indigenous people also have the rights to self-determination, land and territory. It refers to the injustices endured as a result of colonialism and highlights the threat that globalization currently poses, and recognizes the importance of traditional knowledge, biodiversity and the safeguarding of genetic resources. It also limits the activities that third parties can carry out on the lands belonging to indigenous communities. The fact that the Declaration has already been incorporated into domestic law in some countries, such as Bolivia (Plurinational State of) and Ecuador, represents a step forward.

## **V. Ways and means to advance the rights of peasants and other people working in rural areas**

58. Despite the existing human rights framework, peasants and other people working in rural areas are victims of multiple human rights violations that lead to their extreme vulnerability to hunger and poverty. To overcome this situation and further advance their rights, there is a need (a) to better implement existing international norms, (b) to address the normative gaps under international human rights law, and (c) to elaborate a new legal instrument on the rights of people working in rural areas.

### **A. Implementation of existing international norms**

59. States should improve the protection of the rights of peasants and other people working in rural areas by implementing existing international norms at the domestic level, preferably through their recognition in national Constitutions. They should also adopt new laws to advance the protection of these rights, with the full participation of the most vulnerable and discriminated groups working in rural areas. In adopting these laws, States should follow the recommendation of the Committee on Economic, Social and Cultural Rights, which stated in paragraph 8 of its general comment No. 20 that the elimination of discrimination in practice requires paying sufficient attention to groups of individuals that suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately take the necessary measures to prevent, diminish and eliminate the conditions and attitudes that cause or perpetuate substantive or de facto discrimination.

60. In the event of human rights violations, victims could make better use of existing national, regional and international monitoring mechanisms, possibly with the support of

national and international non-governmental organizations and national human rights institutions. Regional and national monitoring mechanisms have already proven to be very useful for the implementation of the rights of people working in rural areas.<sup>81</sup> New international instruments, such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly in December 2008, will offer new possibilities for access to justice at the international level.

61. Better use should also be made of soft law instruments that improve the visibility of existing human rights norms protecting the rights of peasants and other people living in rural areas. In 2007, the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context developed a set of basic principles and guidelines on development-based evictions and displacement to fill in operational gaps in relation to forced evictions.<sup>82</sup> The objective of the principles and guidelines was to offer a step-by-step approach that States could follow to ensure that the necessary displacements and evictions due to development are conducted in compliance with existing human rights law. In 2009, the Special Rapporteur on the right to food developed a set of core principles and measures to address the human rights challenge to set criteria to be followed by States and companies in order to respect existing human rights law when buying or leasing land in other countries.<sup>83</sup>

## **B. Addressing normative gaps under international human rights law**

62. Existing international human rights instruments, even if they were better implemented, remain insufficient to protect fully the rights of peasants and other people working in rural areas. These groups have suffered historic and persistent discrimination in many countries around the globe, and the existing protection of their rights is insufficient to overcome this situation. It is therefore necessary to go beyond existing norms and address the normative gaps under international human rights law.

63. In his report submitted to the Human Rights Council in 2007, the Special Rapporteur on the right to adequate housing recommended that the Council should recognize the right to land in international human rights law.<sup>84</sup> The Special Rapporteur on the right to food, in his report presented to the General Assembly in October 2010, recommended that international human rights bodies should consolidate the right to land.<sup>85</sup> The current process of elaborating voluntary guidelines on responsible governance of tenure of land and other natural resources at FAO is also intended to address the same gap. These recommendations and initiatives should be supported.

## **C. New legal instrument on the rights of people working in rural areas**

64. The current initiatives to address existing gaps in international human rights law should be complemented by others. The fact that the great majority of peasants and other people working in rural areas are engaged in the informal sector, and are therefore not covered by ILO Conventions, is of particular concern, as is the fact that their need to have a

<sup>81</sup> Christophe Golay, *The Right to Food and Access to Justice: Examples at the national, regional and international levels* (Rome, FAO, 2009).

<sup>82</sup> A/HRC/4/18, annex I.

<sup>83</sup> A/HRC/13/33/Add.2, annex.

<sup>84</sup> A/HRC/4/18, para. 33 (e).

<sup>85</sup> A/65/281, para. 43 (d).

secured access to productive resources, including land, seeds, small-scale irrigation, fishing grounds or forests, is not recognized explicitly in any international human rights instruments. There is therefore a need to elaborate a new international instrument on the rights of peasants and other people working in rural areas.

65. In June 2008, after more than seven years of consultation with the organizations of its members, La Via Campesina adopted the Declaration of the Rights of Peasants – Men and Women.<sup>86</sup> It presented the Declaration as a response to the world food crisis before the Human Rights Council and the General Assembly in 2009.<sup>87</sup> The Declaration offers an interesting basis for the recognition of the rights of peasants and other people working in rural areas, elaborated by an organization that brings together 148 organizations in 69 countries and is estimated to represent more than 200 millions peasants, smallholder farmers, agricultural workers, indigenous people, peasant women and landless people worldwide.

66. The Declaration of the Rights of Peasants could serve as a model. Its structure follows that of the United Nations Declaration on the Rights of Indigenous Peoples. In article 1, it gives a definition of a peasant, which includes small-scale farmers, landless peasants and non-agricultural households in rural areas, whose members are engaged in fishing, making crafts for the local market or providing services, and other rural households of pastoralists, nomads, peasants practising shifting cultivation, hunters and gatherers, and people with similar livelihoods. It reaffirms the rights to life and to an adequate standard of living (art. 3); the right to freedoms of association, opinion and expression (art. 12) and the right to have access to justice (art. 13). In addition, it recognizes new rights that could reinforce the protection of peasants against discrimination. These include the right to land and territory (art. 4); the right to seeds and traditional agricultural knowledge and practice (art. 5); the right to means of agricultural production (art. 6); the right to information and agricultural technology (art. 7); the freedom to determine prices and markets for agricultural production (art. 8); the right to the protection of local agricultural values (art. 9); the right to biological diversity (art. 10); and the right to preserve the environment (art. 11).

67. Fisher communities have expressed the same needs in seminars in different continents in 2010.<sup>88</sup> The different groups working in rural areas, and in particular peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers, are coming together to defend greater recognition of their rights in international human rights law.

## VI. Conclusion

**68. Smallholder farmers, landless people, tenant farmers, agricultural labourers and people living from traditional fishing, hunting and herding activities are among the most discriminated and vulnerable people in many parts of the world. Every year, thousands of peasant farmers are the victims of expropriation of land, forced evictions and displacements - a situation that could reach an unprecedented level owing to the new phenomenon of the global “land grab”. At the same time, traditional fishing communities are increasingly threatened by the industrialization of fishing activities;**

<sup>86</sup> A/HRC/13/32, annex.

<sup>87</sup> See statement of La Via Campesina before the General Assembly of 6 April 2009, at [www.viacampesina.org](http://www.viacampesina.org).

<sup>88</sup> See for example the conclusions of the workshop on the theme “Securing sustainable small-scale fisheries: bringing together responsible fisheries and social development”, San José, 20-22 October 2010.

people living from hunting activities, by the creation of development projects; and pastoralists, by conflicts with farmers over land and water resources. All together, these people constitute 80 per cent of the world's hungry. Women alone represent 70 per cent of the world's hungry; peasant women are particularly affected by hunger and poverty, largely as a result of discrimination in access to and control over productive resources, such as land, water and credit.

69. To overcome this situation, there is a need to give more attention to agrarian reforms that benefit small-scale land holders and promote security of tenure and access to land, in particular for women. There is also an urgent need to ensure that Government policies are sufficiently well formulated in order to address the needs of the most vulnerable people working in rural areas. A better implementation of the human rights instruments protecting the rights of peasants and other people working in rural areas, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Declaration on the Rights of Indigenous People, is also urgently needed. The right to land should be recognized in international human rights law.

70. The above measure will not, however, be sufficient. To further advance the rights of peasants and other people working in rural areas, there is a need to elaborate a new international human rights instrument. Such an instrument – initially, a declaration – should recognize in a single instrument the rights enshrined in other international instruments, to increase coherence and visibility. It should also recognize new rights of peasants and other people working in rural areas, such as the rights to land, seeds and the means of production. The elaboration of this instrument, with the full participation of peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers and all other stakeholders would be one of the best ways to overcome centuries of discrimination against the most vulnerable groups working in rural areas.

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