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Final study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas^{* **}

Summary

In the present study, undertaken pursuant to Human Rights Council resolution 16/27, 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 recommends that the Human Rights Council create a new special procedure to improve the promotion and protection of the rights of peasants and other people working in rural areas, and develop a new international human rights instrument on the rights of peasants and other people working in rural areas. The declaration on the rights of peasants adopted by the Advisory Committee, annexed to the present study, could serve as a model.

* The annex to the present report is circulated as received, in the language of submission only.

** Late submission.

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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 final study on discrimination in the context of the right to food (A/HRC/16/40), the Advisory Committee identified peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers as among the most discriminated-against 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. The 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. It was adopted by the Advisory Committee at its sixth session and submitted to the Human Rights Council at its sixteenth session (A/HRC/16/63).

4. In its resolution 16/27, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to collect the views and comments of all Member States and other stakeholders on the preliminary study so that the Advisory Committee may take them into account in the preparation of the final study, to be presented to the Council at its nineteenth session. A note verbale was sent by OHCHR on 6 April 2011 to all permanent missions to the United Nations Office at Geneva and to other stakeholders. Ecuador, Germany, the Republic of Korea, Switzerland and CETIM sent their views and comments on the preliminary study.

5. Other States, including South Africa, Ghana, Indonesia and Cuba, as well as the European Union and the African Group, and other stakeholders, including the Special Rapporteur on the right to food, Olivier De Schutter, La Via Campesina, FIAN International, the Foundation Danielle Miterrand France Libertés, the Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP) and the Centre for Human Rights and Peace Advocacy, gave their views and comments during the sixteenth session of the Human Rights Council, when the work of the Advisory Committee was presented on 15 March 2011, or at the side event on "The need of increased protection of human rights of peasants" held on 9 March 2011.

6. During the seventh session of the Advisory Committee, Jean Ziegler, on behalf of the working group on the right to food, presented an update on the preliminary study in which the views and comments of States and other stakeholders were presented, together with the last developments on the issue and proposals to be included in the final study (A/HRC/AC/7/CRP.1). This gave States and other stakeholders another opportunity to give their views and comments on the preliminary study.

7. These views and comments were all taken into account in the drafting of this final study.¹ The great majority of them supported the main conclusions and recommendations of the preliminary study of the Advisory Committee.

8. At its eighth session, the Advisory Committee considered and approved the present study, to be submitted to the Human Rights Council at its nineteenth session.

II. Identification of vulnerable groups working in rural areas that are subject to discrimination

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

9. 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.² Of the 1 billion people who suffer from extreme poverty in the world, 75 per cent live and work in rural areas.³ 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. And 10 per cent of the world's hungry live from traditional fishing, hunting and herding activities in rural communities. As much as 70 per cent of the world's hungry are women and a great majority of them work in agriculture.

10. 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. In other studies requested by the Human Rights Council in its resolution 16/27, the Advisory Committee will look at the rights of rural women and the urban poor.

B. Smallholder farmers

11. 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.

¹ The members of the drafting group on the right to food thank Christophe Golay of the Geneva Academy of International Humanitarian Law and Human Rights for his important input during the drafting of the present study.

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

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

12. In Guatemala, 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.⁴ 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*⁵ of land being 3.2 times more likely to be malnourished than families possessing more than five *manzanas*.⁶ 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 (A/HRC/13/33/Add.4, para. 11).

13. The situation is similar in Bolivia (Plurinational State of) (A/HRC/7/5/Add.2, para. 14). 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 production. This has resulted in very high levels of malnutrition, especially micronutrient malnutrition, among *altiplano* families because their diet is inadequate.⁷

14. 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.⁸ Agriculture is still predominantly rain-dependent and only 3 per cent of irrigable land is irrigated, contributing to a high vulnerability to drought.⁹ Many Ethiopian farmers do not produce enough even for their own subsistence. Two thirds of households farm on less than 0.5 hectares, insufficient to support a family, and these holdings are becoming smaller and smaller owing to the fast rate of population growth.¹⁰ 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

15. 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.¹¹

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

⁵ One *manzana* = 6,987 m².

⁶ United Nations, Common country assessment: Guatemala, 2004, p. 16.

⁷ United Nations Development Programme (UNDP), *Objetivos de desarrollo del milenio. La Paz, situación actual, evaluación y perspectivas*, 2007.

⁸ International Food Policy Research Institute, *Ending the Cycle of Famine in Ethiopia* (Washington, D.C., 2003).

⁹ E/CN.4/2005/47/Add.1, para. 11.

¹⁰ 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.

¹¹ IFAD, *Rural Poverty Report 2001*.

16. In Bangladesh, for example, more than two thirds of rural people are now landless¹² (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.¹³ 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.

17. 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.¹⁴ 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. In some States, feudalistic patterns of land ownership persist, despite legal abolition and the official Land Ceilings Act that aimed to limit land concentration.¹⁵ Scheduled castes and tribes suffer most from hunger and malnutrition in India; they make up 25 per cent of the rural population but 42 per cent of the poor.¹⁶ 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

18. 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.

19. 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.¹⁷ In agreements with Argentina and Senegal for example, 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.¹⁸ Fish farming is mostly located in developing countries (84 per cent of global production is in low-income food deficit

¹² E/CN.4/2004/10/Add.1, para. 9.

¹³ Rahman A.T.R., *Human Security in Bangladesh: In Search of Justice and Dignity* (Bangladesh, UNDP, 2002).

¹⁴ 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.

¹⁵ E/CN.4/2006/44/Add.2, paras. 10-11.

¹⁶ 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.

¹⁷ A/59/385, paras. 33-60.

¹⁸ 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).

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.¹⁹ Indeed, in most cases, fish farming has a negative impact on access to food for traditional fishing communities.²⁰

20. 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-governmental organizations and academics estimate that dam projects alone have displaced up to 30 million people in the last decades,²¹ 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.

21. 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.²² 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.²³

E. Peasant women

22. 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.²⁴ 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.

¹⁹ Rosamond L. Naylor and others, "Effect of Aquaculture on World Fish Supplies", *Nature*, vol. 405, 29 June 2000, pp. 1017–1024.

²⁰ 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).

²¹ 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).

²² E/CN.4/2002/58/Add.1, para. 60.

²³ 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.

²⁴ Food and Agriculture Organization of the United Nations (FAO), *Gender Food Security*, Synthesis report of regional documents (Rome, 2004).

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.

23. 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.²⁵ Customs and traditions in many parts of the world limit women's equal access to productive resources. In some countries, discrimination is still codified in national laws; in others, it is part of customary law (see part III.B. below).

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

24. 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

25. 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.²⁶ 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.²⁷ 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, for food to be exported back to their countries or to grow biofuels to fill the petrol tanks of those in the global North (see A/HRC/13/33/Add.2).

26. In June 2011, the Oakland Institute released a collection of new reports examining the consequences of the "land grab" on rural communities in several African countries, including Ethiopia, Mali, Sierra Leone, Mozambique, the United Republic of Tanzania and South Sudan.²⁸ Among others, the Oakland Institute describes the land deals of the Addax

²⁵ Isabelle Rae, *Women and the Right to Food: International Law and State Practice* (FAO, Rome 2008).

²⁶ 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.

²⁷ See for example A/HRC/4/30/Add.1.

²⁸ Oakland Institute, *Understanding Land Investment Deals in Africa*, 2011, reports available online at <http://media.oaklandinstitute.org/special-investigation-understanding-land-investment-deals-africa>.

& Oryx Group bioenergy investment in Sierra Leone, AgriSol Energy and Pharos Global Agriculture's land deal in Tanzania, Deciphering Emergent's investments in Africa, Emvest Asset Management in Mattuba, Mozambique, Malibya in Mali, Nile Trading and Development, Inc. in South Sudan, Quifel International Holdings in Sierra Leone, and Saudi Star in Ethiopia. These reports demonstrate the rapid acceleration of the phenomenon of "land grab" across Africa and conclude that "these largely unregulated land purchases are resulting in virtually none of the promised benefits for native populations, but instead are forcing millions of small farmers off ancestral lands and small, local food farms in order to make room for export commodities, including biofuels and cut flowers".²⁹

27. The phenomenon of the global "land grab" and its consequences were among the main issues discussed at the World Social Forum in Dakar in February 2011. During the World Social Forum, La Via Campesina and the West African Network of Peasants and Agricultural Producers (ROPPA), with the support of other organizations, including FIAN International, facilitated the adoption of the Dakar Appeal Against the Land Grab.³⁰ By signing the Dakar Appeal between February and June 2011, more than 500 civil society organizations have recalled that "recent massive land grabs targeting tens of millions of acres for the benefit of private interests or third States – whether for reasons of food, energy, mining, environment, tourism, speculation or geopolitics – violate human rights by depriving local, indigenous, peasant, pastoralist and fisher communities of their livelihoods, by restricting their access to natural resources or by removing their freedom to produce as they wish, and exacerbate the inequalities of women in access and control of land". They have also called on Governments to immediately cease all massive land grabs, current or future, and return the plundered land, and they have asked "states, regional organizations and international institutions (to) guarantee people's right to land and support family farming and agro-ecology".³¹

28. The Dakar Appeal Against the Land Grab was sent to the participants of the meeting of G-20 Agricultural Ministers, which took place in Paris on 23 June 2011. But the appeal of civil society organizations was not heard. In response to the positions taken by the G-20 Ministers of Agriculture at this meeting, the Special Rapporteur on the right to food, Olivier De Schutter, regretted that the G-20 Ministers of Agriculture took no decision to stop incentives and subsidies for biofuels production and found "troubling that biofuels are mentioned as a source of rural development, when in practice, up to now at least, the production of biofuels primarily benefits large agro-export companies and use the natural resources from the South to feed the thirst for renewable energies in the North".³²

B. Gender discrimination

29. 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 discrimination: 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

²⁹ Oakland Institute, "Hedge Funds Create Volatility in Global Food Supply with Land Grabs Across Africa", Press release, 8 June 2011.

³⁰ The Dakar Appeal Against the Land Grab is available online, at www.fian.org/news/press-releases/dakar-appeal-against-the-land-grab/pdf.

³¹ Ibid.

³² Olivier De Schutter, Special Rapporteur on the right to food, "G20 Action Plan addresses the symptoms, not the causes of the problem", Brussels, 23 June 2011.

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.³³

30. 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 Bangladesh, for example, women are guaranteed equality by the law, but existing social values, reinforced by religion, permit discrimination against them. Under Islamic law, a daughter has the right to only half the land inheritance to which her brother is entitled, while the brother is obliged to financially maintain his sister (although this obligation is often not observed). 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.³⁴

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

31. 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.³⁵ 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.

32. 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.³⁶ In the Declaration of the International Conference on Agrarian Reform and Rural Development, organized by the Food and Agriculture Organization of the United Nations (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.³⁷

33. 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.³⁸ More recently, the move towards

³³ Foodfirst Information and Action Network, *The Human Right to Food in Guatemala*, 2004.

³⁴ International Monetary Fund, *Bangladesh: Interim Poverty Reduction Strategy Paper*, No. 03/177 (Washington, D.C., 2003).

³⁵ A/65/281.

³⁶ See FAO, Report of the World Food Summit, 13–17 November 1996 (WFS 96/REP), part one, appendix.

³⁷ FAO, *Report of the International Conference on Agrarian Reform and Rural Development, Pôrto Alegre, Brazil, 7–10 March 2006* (C 2006/REP), appendix G.

³⁸ IFAD, *Rural Poverty Report 2001*.

transformative and redistributive agrarian reform has been successfully chosen by the Government of Bolivia (Plurinational State of).

34. 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.³⁹ This situation 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 2008.⁴⁰

35. 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.

36. 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.⁴¹ 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.

37. 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.⁴²

D. Lack of a minimum wage and social protection

38. 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.

³⁹ 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, 30 June 2009.

⁴⁰ 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.

⁴¹ A/64/170.

⁴² 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.

Agricultural labourers work for extremely low wages, which are insufficient to feed their families. Moreover, these wages have no long-term security and labourers are forced to migrate from one insecure and informal job to another.⁴³

39. In Guatemala, for example, 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 (A/HRC/13/33/Add.4, paras. 27–30). Landowners often avoid paying legal entitlements by dismissing workers repeatedly to keep them on non-permanent contract status,⁴⁴ and often dismiss workers who negotiate for better conditions.⁴⁵ 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.

40. In the Plurinational State of Bolivia, 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 practised by the private sector, including the sugar cane industry, the Brazil nut industry and on private ranches (*haciendas*) in the region of the Chaco.⁴⁶ 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

41. 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 international movement of peasants, La Via Campesina, to protect their rights and promote agricultural policies and land reforms in favour of small farmers.⁴⁷

42. 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

⁴³ IFAD, *Rural Poverty Report 2001*.

⁴⁴ World Bank, *Guatemala: Poverty in Guatemala*, 2003, p. 52.

⁴⁵ Foodfirst Information and Action Network, *The Human Right to Food in Guatemala*, 2004. See also FIAN, *Guatemala: Harassment of illegally dismissed workers from the Nueva Florencia Farm in 1997*, 6 February 2009.

⁴⁶ Bhavna Sharma, *Contemporary Forms of Slavery in Bolivia* (London, Anti-Slavery International 2006).

⁴⁷ 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.

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.⁴⁸ 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 (A/HRC/4/37, paras. 45–47). 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.⁴⁹ On 17 April each year, La Via Campesina commemorates the 1996 massacre of 19 landless peasants at Eldorado do Carajas (Brazil).

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

43. 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.⁵⁰ 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

44. Articles 11, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights protecting (a) the right to food, (b) the right to adequate housing, (c) the right to health, (d) the rights to water and sanitation and (e) the right to education are the most relevant with regard to the protection they offer for the rights of peasants and other people working in rural areas.

1. Right to food

45. 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).

⁴⁸ La Via Campesina, *Annual Report: Violations of Peasants' Human Rights*, 2006.

⁴⁹ PAKISAMA statement on the assassination of Renato Penas. Available from <http://focusweb.org/philippines/content/view/301/4/>.

⁵⁰ See Christophe Golay, *The Rights of Peasants*, CETIM, 2009 (available from 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.

46. 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).

2. Right to adequate housing

47. 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.⁵¹ The right to 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.⁵²

48. 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.⁵³

49. 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”.⁵⁴ 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.⁷⁷

3. Right to health

50. 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

⁵¹ Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22), annex IV, para. 7.

⁵² E/CN.4/2001/51, para. 8.

⁵³ *Official Records of the Economic and Social Council*, 1992, Supplement No. 3 (E/1992/23), para. 8.

⁵⁴ *Ibid.*, 1998, Supplement No. 2 (E/1998/22), annex IV, para. 3.

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.⁵⁵

51. 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.⁵⁶

4. Rights to water and sanitation

52. The human rights to water and sanitation have witnessed a remarkable development in the past years.⁵⁷ The recognition by States that the rights have a self-standing legal meaning is explained by their centrality for enjoying a dignified life; they are also a precondition for the realization of most other human rights of the two Covenants.⁵⁸ The rights to water and sanitation contain freedoms and entitlements, including the right to be free from arbitrary disconnections or contamination of water supplies, and the right to a system of water supply and to sanitation facilities that are available, of good quality, affordable and physically accessible, non-discriminatory and culturally and gender acceptable.⁵⁹

53. The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Special Rapporteur on the human right to safe drinking water and sanitation have stressed that States have the obligation to progressively extend access to water and safe sanitation services with priority to vulnerable groups from rural and deprived urban areas with a particular focus on the needs of women and children.⁶⁰

5. Right to education

54. Stipulated in article 26 of the Universal Declaration on Human Rights, the right to education is equally guaranteed under article 13 of the Covenant. Primary education shall be compulsory and free for all, secondary and higher education (the latter on basis of capacity) shall be made accessible to all by the progressive introduction of free education. The right to receive education is underpinned by the best interests of the student as primary consideration and a number of substantive feature: educational institutions and programmes have to be available in sufficient number in urban, as well as rural areas; they have to be physically and economically accessible without discrimination; the form and substance of

⁵⁵ E/C.12/2000/4, paras. 1 and 4.

⁵⁶ Ibid., paras. 12, 36 and 43.

⁵⁷ C. Golay, C. Mahon, I. Cismas, "The impact of UN special procedures on the development and implementation of economic, social and cultural rights", *The International Journal of Human Rights*, 15:2, pp. 301–302.

⁵⁸ Human Rights Council resolution 7/22 of 28 March 2008; General Assembly resolution 64/292 of 28 July 2010.

⁵⁹ E/C.12/2002/11; A/HRC/12/24.

⁶⁰ E/C.12/2002/11, paras. 16, 26, 29; A/HRC/12/24, paras. 32, 52.

education have to be acceptable in terms of relevance, cultural appropriateness and of good quality; and adaptable and responsive to the needs of changing societies and communities.⁶¹

55. As the Committee on Economic, Social and Cultural Rights emphasizes, in addition to being a human right, “education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities”.⁶² As an empowerment right thus, the right to education is of major relevance for marginalized and discriminated people working in the rural area.

B. International Covenant on Civil and Political Rights

56. The human 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 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.

57. 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.

58. Under the Covenant, peasants and other people working in rural areas have the right to be free from arbitrary detention and to a fair trial (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 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

59. 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 to 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.

⁶¹ E/C.12/1999/10, para. 6 and 7.

⁶² *Ibid.*, para 1.

60. 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.⁶³

D. Rights of indigenous people

61. 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.

62. 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. It also recognizes the importance of traditional knowledge, biodiversity and the safeguarding of genetic resources. It 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 the Plurinational State of Bolivia and Ecuador, represents a step forward.

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

63. 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.

⁶³ CEDAW/C/IND/CO/3, para. 47.

A. Implementation of existing international norms

64. 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.

65. 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.⁶⁴ 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. And the Human Rights Council should consider creating a new special procedure to improve the promotion and protection of the rights of peasants and other people working in rural areas.

66. 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 (A/HRC/4/18, annex I). 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 (A/HRC/13/33/Add.2, annex).

B. Addressing normative gaps under international human rights law

67. 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.

⁶⁴ Christophe Golay, *The Right to Food and Access to Justice: Examples at the national, regional and international levels* (Rome, FAO, 2009).

68. 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 (A/HRC/4/18, para. 33 (e)). 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 (A/65/281, para. 43 (d)). 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 peasants and other people working in rural areas

69. The above measures represent important ways and means to further advance the rights of peasants and other people working in rural areas. But they will not be sufficient. 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 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 for a new international instrument on the rights of peasants and other people working in rural areas.

70. At the side-event on “The need of increased protection of human rights of peasants” organized on 9 March 2011, the Special Rapporteur on the right to food identified four main reasons for adopting a new international human rights instrument on the rights of peasants and other people working in rural areas: it is needed in international law; it will improve the fight against hunger; it is a means of protecting small-scale, family-owned farms from the pressure of large, agro-industrial farms; and it will increase access to the means of production in rural areas. The Special Rapporteur also underlined that the adoption of a declaration on the rights of peasants and other people working in rural areas would increase visibility on the rights that are already recognized in international law, and help to recognize new rights, such as the rights to land, to seeds and to compensation for the losses due to food subsidies given to farmers in other countries.

71. In June 2008, after more than seven years of consultation with the organizations of its members, La Via Campesina adopted its Declaration of the Rights of Peasants – Men and Women (A/HRC/13/32, annex). It presented the Declaration as a response to the world food crisis at the Human Rights Council and the General Assembly in 2009.⁶⁵ 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. Fisher communities have expressed the same vision in seminars in different continents in 2010.⁶⁶ The different groups working in rural areas, and in particular peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers, are

⁶⁵ See statement of La Via Campesina before the General Assembly of 6 April 2009, at www.viacampesina.org.

⁶⁶ 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.

coming together to defend greater recognition of their rights in international human rights law.

72. The Advisory Committee is convinced the best way to further advance the protection of the rights of peasants and other people working in rural areas is to adopt a new instrument – initially, a declaration – to better promote and protect these rights. In the annex to the present study, it therefore proposes a declaration on the rights of peasants and other People Working in Rural Areas. The Declaration adopted by the Advisory Committee could serve as a model for a new instrument to be developed by the Human Rights Council. 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 and other people working in rural areas, 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 their rights to life and to an adequate standard of living (art. 3); their right to freedoms of association, opinion and expression (art. 12) and their right to have access to justice (art. 13). In addition, it recognizes new rights that could reinforce their protection 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).

VI. Conclusion

73. 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 is reaching 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; 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.

74. To overcome this situation, the Advisory Committee makes the following recommendations:

(a) More attention should be given to agrarian reforms that benefit small-scale land holders and promote security of tenure and access to land, in particular for women;

(b) Government policies should be sufficiently well formulated in order to address the needs of the most vulnerable people working in rural areas;

(c) 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, should be better implemented;

(d) The Human Rights Council should create a new special procedure to improve the promotion and protection of the rights of peasants and other people working in rural areas;

(e) The right to land should be recognized in international human rights law;

(f) A new international human rights instrument on the rights of peasants and other people working in rural areas should be developed and adopted by the Human Rights Council. The declaration on the rights of peasants adopted by the Advisory Committee (see annex) could serve as a model. The new instrument to be developed by the Human Rights Council should recognize the rights enshrined in existing 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 by the Human Rights Council, with the full participation of peasant farmers, small landholders, landless workers, fisher-folk, hunters and gatherers and all other stakeholders, represents one of the best ways to overcome centuries of discrimination against the most vulnerable groups working in rural areas.

Annex

Declaration on the rights of peasants and other people working in rural areas

The Human Rights Council Advisory Committee,

Affirming that peasants are equal to all other people and, in the exercise of their rights, should be free from any form of discrimination, including discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, wealth, birth or other status,

Acknowledging that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Program of Action, affirm the universality, indivisibility and interdependence of all human rights, civil, cultural, economic, political and social,

Emphasizing that in the International Covenant on Economic, Social and Cultural Rights, States have undertaken to take appropriate steps to ensure the realization of the right to an adequate standard of living, including adequate food, and the fundamental right to be free from hunger, notably through the development and reform of agrarian systems,

Emphasizing that according to the United Nations Declaration on the Rights of Indigenous Peoples, indigenous peoples, including indigenous peasants, have the right to self-determination and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development, having the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions,

Recalling that many peasants all over the world have fought throughout history for the recognition of their rights and for just and free societies,

Considering that the current development of agriculture, speculation on food products and large-scale land acquisitions and leases in many parts of the world threaten the lives of millions of peasants,

Considering the increasing concentration of the food systems in the world in the hands of a small number of transnational corporations,

Acknowledging that small-scale peasant agriculture, fishing and livestock rearing can contribute to secure a sustainable food production for all,

Considering that peasants constitute a specific social group which is so vulnerable that the protection of their rights require special measures to make sure that States respect, protect and fulfil their human rights,

Believing that this Declaration is an essential step towards the recognition, promotion and protection of the rights of peasants,

Recognizing and reaffirming that peasants are entitled without discrimination to all human rights recognized in international law,

Solemnly adopts the following Declaration on the Rights of Peasants:

Article 1

Definition of peasants

1. A peasant is a man or woman of the land, who has a direct and special relationship with the land and nature through the production of food or other agricultural products. Peasants work the land themselves and rely above all on family labour and other small-scale forms of organizing labour. Peasants are traditionally embedded in their local communities and they take care of local landscapes and of agro-ecological systems.

2. The term peasant can apply to any person engaged in agriculture, cattle-raising, pastoralism, handicrafts-related to agriculture or a related occupation in a rural area. This includes indigenous people working on the land.

3. The term peasant also applies to landless. According to the UN Food and Agriculture Organization definition, the following categories of people are considered to be landless and are likely to face difficulties in ensuring their livelihood: 1. Agricultural labour households with little or no land; 2. Non-agricultural households in rural areas, with little or no land, whose members are engaged in various activities such as fishing, making crafts for the local market, or providing services; 3. Other rural households of pastoralists, nomads, peasants practising shifting cultivation, hunters and gatherers, and people with similar livelihoods.

Article 2

Rights of peasants

1. All peasants, women and men, have equal rights.

2. Peasants have the right to the full enjoyment, individually and collectively, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and other international human rights instruments.

3. Peasants are free and equal to all other peoples and have the right to be free from any kind of discrimination in the exercise of their rights, in particular to be free from discriminations based on their economic, social and cultural status.

4. Peasants have the right to participate in the policy design, decision making, implementation, and monitoring of any project, program or policy affecting their land and territories.

5. Peasants have the right to food sovereignty, which comprises the right to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and the right to define their own food and agriculture systems.

Article 3

Right to life and to an adequate standard of living

1. Peasants have the right to physical integrity, to not be harassed, evicted, persecuted, arbitrarily arrested, and killed for defending their rights.

2. Peasants have the right to live in dignity.

3. Peasants have the right to an adequate standard of living, which includes the right to an adequate income to fulfil their basic needs and those of their families.

4. Peasants have the right to adequate, healthy, nutritious, and affordable food, and to maintain their traditional food cultures.
5. Peasants have the right to consume their own agricultural production and to use this to satisfy their families' basic needs, and the right to distribute their agriculture production to other people.
6. Peasants have the right to safe drinking water, sanitation, means of transportation, electricity, communication and leisure.
7. Peasants have the right to adequate housing and clothing.
8. Peasants have the right to education and training.
9. Peasants have the right to the highest attainable standard of physical and mental health. They have the right to have access to health services and medicine, even when they live in remote areas. They also have the right to use and develop traditional medicine.
10. Peasants have the right to live a healthy life, and not be affected by the contamination of agrochemicals, such as chemical pesticides and fertilisers.
11. Peasant women have the right to be protected from domestic violence, physical, sexual, verbal and psychological.
12. Peasant women have the right to control their own bodies and to reject the use of their bodies for commercial purposes.
13. Peasants have the right to decide about the number of children they want to have, and about the contraceptive methods they want to use.
14. Peasants have the right to the full realization of their sexual and reproductive rights.

Article 4

Right to land and territory

1. Peasants have the right to own land, individually or collectively, for their housing and farming.
2. Peasants and their families have the right to toil on their own land, and to produce agricultural products, to rear livestock, to hunt and gather, and to fish in their territories.
3. Peasants have the right to toil and own unused land on which they depend for their livelihood.
4. Peasants have the right to manage, conserve, and benefit from the forests and fishing grounds.
5. Peasants have the right to security of tenure and not to be forcibly evicted from their lands and territories. No relocation should take place without free, prior and informed consent of the peasants concerned and after agreement on just and fair compensation and, where possible, with the option of return.
6. Peasants have the right to benefit from land reform. Latifundia must not be allowed. Land has to fulfil its social function. Land ceilings to land ownership should be introduced whenever necessary in order to ensure an equitable access to land.

Article 5**Right to seeds and traditional agricultural knowledge and practice**

1. Peasants have the right to determine the varieties of the seeds they want to plant.
2. Peasants have the right to reject varieties of plants which they consider to be dangerous economically, ecologically, and culturally.
3. Peasants have the right to reject the industrial model of agriculture.
4. Peasants have the right to conserve and develop their local knowledge in agriculture, fishing, livestock rearing.
5. Peasants have the right to use the agriculture, fishing, livestock rearing facilities.
6. Peasants have the right to choose their own products and varieties, and the ways of farming, fishing, and livestock rearing, individually or collectively.
7. Peasants have the right to use their own technology or the technology they choose guided by the need to protect human health and environmental conservation.
8. Peasants have the right to grow and develop their own varieties and to exchange, to give or to sell their seeds.

Article 6**Right to means of agricultural production**

1. Peasants have the right to obtain credit and the materials and tools needed for their agricultural activity.
2. Peasants have the right to obtain technical assistance, production tools and other appropriate technology to increase their productivity, in ways that respect their social, cultural and ethical values.
3. Peasants have the right to water for irrigation and agricultural production in sustainable production systems controlled by local communities. They have the right to use the water resources in their land and territories.
4. Peasants have the right to the means of transportation, drying, and storage facilities for selling their products on local markets.
5. Peasants have the right to be involved in the planning, formulation, and adoption of local and national budgets for agriculture.

Article 7**Right to information**

1. Peasants have the right to obtain adequate information related to peasants' needs, including about capital, market, policies, prices and technology.
2. Peasants have the right to obtain adequate information about goods and services, and to decide what and how they want to produce and consume.
3. Peasants have the right to obtain adequate information at the national and international levels on the preservation of genetic resources.

Article 8

Freedom to determine price and market for agricultural production

1. Peasants have the right to prioritize their agricultural production for their families' needs. They have the right to store their production to ensure the satisfaction of their basic needs and those of their families.
2. Peasants have the right to sell their products on traditional local markets.
3. Peasants have the right to determine the price, individually or collectively.
4. Peasants have the right to get fair price for their production.
5. Peasants have the right to get a fair payment for their work, to fulfil their basic needs and those of their families.
6. Peasants have the right to a fair and impartial system of evaluation of the quality of their product, nationally and internationally.
7. Peasants have the right to develop community-based commercialization systems in order to guarantee food sovereignty.

Article 9

Right to the protection of agriculture values

1. Peasants have the right to the recognition and protection of their culture and local agriculture values.
2. Peasants have the right to develop and preserve local knowledge in agriculture.
3. Peasants have the right to reject interventions that can destroy local agricultural values.
4. Peasants have the right to be express their spirituality, individually and collectively.

Article 10

Right to biological diversity

1. Peasants have the right to protect, preserve and develop biological diversity, individually and collectively.
2. Peasants have the right to reject patents threatening biological diversity, including on plants, food and medicine.
3. Peasants have the right to reject intellectual property rights on goods, services, resources and knowledge that are owned, maintained, discovered, developed or produced by the local peasant communities.
4. Peasants have the right to reject certification mechanisms established by transnational corporations. Local guarantee schemes run by peasants' organizations with government support should be promoted and protected.

Article 11
Right to preserve the environment

1. Peasants have the right to a clean and healthy environment.
2. Peasants have the right to preserve the environment according to their knowledge.
3. Peasants have the right to reject all forms of exploitation which cause environmental damage.
4. Peasants have the right to sue and claim compensation for environmental damage.
5. Peasants have the right to reparation for ecological debt and the historic and current dispossession of their land and territories.

Article 12
Freedoms of association, opinion and expression

1. Peasants have the right to freedom of association with others, and to express their opinion, in accordance with traditions and culture, including through claims, petitions, and mobilizations, at the local, regional, national and international levels.
2. Peasants have the right to form and join independent peasants' organizations, trade unions, cooperatives, or any other organizations or associations, for the protection of their interests.
3. Peasants, individually or collectively, have the right to expression in their local customs, languages, local culture, religions, cultural literature and local art.
4. Peasants have the right not to be criminalized for their claims and struggles.
5. Peasants have the right to resist oppression and to resort to peaceful direct action in order to protect their rights.

Article 13
Right to have access to justice

1. Peasants have the right to effective remedies in case of violations of their rights. They have the right to a fair justice system, to have effective and non-discriminatory access to courts.
 2. Peasants have the right to legal assistance.
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