Critical Report n° 5

Issue: Right to Food

Part of a series of the Human Rights Programme

CETIM

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September 2009
URL: http://cetim.ch/en/publications_cahiers.php

THE RIGHTS OF PEASANTS

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INTRODUCTION

Peasants have always been among the first victims of hunger and multiple violations of human rights all over the world. For hundreds of years they have been forcibly evicted from their lands. Their claims have been met by violent repression. Every year thousand of peasants are killed defending their rights to land, water, seeds and other productive resources. For centuries, such violations were committed in the name of the civilizing mission of colonialism; in recent decades, it has been done in the name of neo-liberal free-market policies, which favours highly-mechanized, export-oriented agricultural production and the interests of multinational corporations.

To address the problem, la Vía Campesina, the international peasant movement founded in 1993, has spent more than ten years denouncing these violations of the rights of peasants to the United Nations. These denunciations, taken up by CETIM at the end of the 1990s, were then presented, in the form of annual reports, at parallel events to the Human Rights Commission, in collaboration with another NGO, FIAN International (Foodfirst Information and Action Network). At the same time, la Vía Campesina was engaged in a lengthy process of drawing up a comprehensive definition of the rights of peasants until, in June 2008, after seven years of internal

discussion and consultation with its member organizations, it finally adopted *The Declaration of the Rights of Peasants – Men and Women.*[1]

It took the United Nations a long time to understand la Vía Campesina's demands. It was only with the creation of the Human Rights Council in June 2006, and the work of its Special Rapporteur on the right to food and its advisory committee in response to the global food crisis, that the rights of peasants were discussed by the United Nations for the first time. In 2009, la Vía Campesina was invited to the UN General Assembly to give its view on the world food crisis and the possible solutions to overcome it. One of the solutions it offered was *The Declaration of the Rights of Peasants – Men and Women.*[2]

This Critical Report is divided into four parts. The first part aims to give an overview of the different forms of violation of peasants' rights (I). The second part deals with the recognition currently given to the rights of peasants in international human rights law (II). The third part looks at la Vía Campesina's *Declaration of the Rights of Peasants – Women and Men* (III). The fourth part examines the current state of discussions on the rights of peasants within the United Nations (IV).

I. AN OVERVIEW OF THE VIOLATION OF THE RIGHTS OF PEASANTS

In its annual reports of 2004, 2005 and 2006, la Vía Campesina documented a significant number of violations of the human rights of peasants.[3] FIAN International produced something similar, based on cases uncovered by the Emergency Network of the Global Campaign for Agrarian Reform.[4] Several of these cases were taken up by the Special Rapporteur on the Right to Food and the Special Rapporteur on Adequate Housing.[5]

Violations of the rights of peasants include the discrimination experienced by peasant families in the exercise of their rights to food, water, healthcare, education, work and social security (1) and the states' failure to implement land reforms and rural development policies which would help to remedy this situation (2). They also include forced evictions and displacement of peasant families (3) and the confiscation of seed by the transnational corporations who own the patents (4). Moreover, when the peasants try to organize themselves against these violations, they are often criminalized, arbitrarily arrested and detained or physically attacked by private or state police forces (5).

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1 La Vía Campesina (LVC), *Declaration of the Rights of Peasants – Women and Men*, adopted by the International Conference on the Rights of Peasants in Jakarta in June 2008: http://viacampesina.net/downloads /PDF/EN-3.pdf

2 La Vía Campesina Statement to the UN General Assembly, 6th April 2009, www.viacampesina.org

3 Cf. La Vía Campesina, FIAN, *Violations of peasants' human rights. A Report on Cases and Patterns of Violation 2004*; La Vía Campesina, *Annual Report: Peasant Rights Violation*, 2005; La Vía Campesina, *Annual Report: Violations of Peasants' Human Rights*, 2006.

4 Cf. FIAN, *Violations of peasants' human rights. A Report on Cases and Patterns of Violation 2005*.

5 Cf Especially the reports of missions and communications of the Special Rapporteur on the Right To Food with member States: www2.ohchr.org/english/issues/food/index.htm as well as those of the Special Rapporteur on Adequate Housing: www2.ohchr.org/english/issues/housing/index.htm

1. Discrimination against peasants

The principle of non-discrimination is fundamental in international human rights law. It requires States to take both legislative measures that guarantee non-discrimination in law – formal or de jure – and positive measures that guarantee non-discrimination in practice – substantive or de facto. In its General Comment No 20, the UN Committee on Economic, Social and Cultural Rights (CESCR) defined the steps that States should take in order to put an end to discrimination in practice. According to the Committee: "Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination. For example, ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas." [6]

In the majority of States, peasant families are victims of multiple discriminations in practice, in the exercise of their rights to food, water, sanitation, healthcare, education and social security. J. Ziegler, as member of the Advisory Committee of the Human Rights Council, has for example demonstrated that peasants are among the first victims of discrimination in the exercise of the right to food.[7] Of the billion people in the world today who are undernourished, 70% are peasants – 50% living on land that is too small or of poor quality and 20% being landless families, subsisting as agricultural labourers.[8] According to the Human Development Reports of UNDP (United Nations Development Programme), peasant families are also among the first to be discriminated against in terms of access to safe drinking water, sanitation, health services and education.[9] Rural workers also make up a large part of those workers who do not benefit from any kind of social security.

In spite of their vital role, women living in rural areas are also among the first victims of discrimination in access to food, land, water, healthcare and education. Women and young girls living in rural areas make up the majority of undernourished persons in the world and even though 30% of women are the head of household in rural areas in developing countries, they own less than 2% of the available land.[10] In several States, female agricultural workers are even excluded from any independent income, as their labour is only recognized as supporting that of their husband.[11]

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6 Committee on Economic, Social and Cultural Rights, General Comment n°20, *Non-discrimination in economic, social and cultural rights (art. 2, para. 2),* E/C.12/GC/20, 2nd July 2009, § 8.

7 Cf. Working paper of J. Ziegler, member of the United Nations Human Rights Council Advisory Committee, *Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation*, A/HRC/AC/3/CRP.5, 4th August 2009; see Appendix.

8 UN Millennium Project, Task Force on Hunger, *Halving hunger: it can be done*, 2005, pp. 3-4.

9 Cf. In particular UNDP, *Human Development Report 2006. Beyond scarcity: power, poverty and the global water crisis*, pp.86-88.

10 FAO, *Women and the Right to Food. International Law and State Practice*, 2008: www.fao.org/righttofood/publi08/01_GENDERpublication.pdf.

11 Cf, for example, the Report of mission to Guatemala of J. Ziegler, the Special Rapporteur on the Right to Food, E/CN.4/2006/44/Add.1.

The multiple discriminations suffered by peasant families are largely the result of historical prejudices, political exclusion and cultural factors. To remedy this situation, States are under an obligation to implement land reforms and rural development policies, to guarantee that peasants have equal access to productive resources, clean drinking water, sanitation, a decent job, social security, healthcare and education.

2. The absence of agrarian reforms and rural development policies

In spite of the fact that this question has been brought up time and again – notably in the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, in the Plan of Action from the World Food Summit (WFS) in 1996, and in the Final Declaration from the International Conference on Agrarian Reform and Rural Development, organized in Porto Alegre in March 2006 – the majority of States have resisted pressure to implement agrarian reforms and rural development policies which would have made it possible to combat the discrimination experienced by peasant families.[12]

Agrarian reform was a key factor in the development of agriculture in Europe, South Korea, Japan, China and Cuba, but since the debt crisis of the mid-1970s, it has been discouraged by the World Bank and the International Monetary Fund (IMF). Instead of redistributive land reform, the international financial institutions have for decades advocated agrarian reforms based on market forces. According to this model, rather than land being redistributed to landless peasants it is sold to those who have the means to buy it. In the majority of developing countries, where inequalities in land distribution are glaring – and this is particularly the case in Latin America – and in all States where access to land is fundamental to the realization of the rights of the peasants, agrarian reform based on the market has no chance of bringing about an adequate solution. However, with all but a few exceptions – notably Bolivia since the election of President Evo Morales - it is this model of agrarian reform that is currently being implemented.

At the same time, investment in agriculture and rural development has been greatly reduced in the majority of States over the last thirty years. With the gaining of independence, many States chose to offer subsidies and assistance to farmers, while others chose to invest massively in industrialization and the development of urban centres.[13] Since the debt crisis of the 1980s, however, the World Bank and the IMF have imposed an almost total abandonment of rural development policies, in the name of reducing costs and of the liberalization of agriculture. The IMF and the World Bank have forced the Countries of the South to liberalize their agriculture, to abolish subsidies to small-scale farmers and to encourage the production of crops for export, as a source of foreign revenue in order to repay debt. At the same time, between 1979 and 2004, the percentage of official development assistance (ODA) that is allotted to agriculture has decreased from 18% to 3.5%, or from 8bn US dollars (at 2004 value) to 3.4bn.[14] This has had dramatic consequences for peasant families in developing countries, who now face even more discrimination.

[12] Advisory Committee, Working paper of J. Ziegler, *Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation*, §§ 35-57.

[13] S. Brunel, *Nourrir le monde. Vaincre la faim*, Ed. Larousse, 2009.

[14] F. Lemaître, *Demain, la faim!*, Paris, Grasset, 2009, pp. 103-104.

3. Eviction and Forcible Displacement

Not only have they been denied the benefits of land redistribution programmes, but peasants also find themselves victims of forced eviction and involuntary displacement. Of all the cases of violation of the rights of peasants reported by la Vía Campesina, FIAN International and United Nations experts, two thirds concern eviction and forced displacement.[15]

Every year, thousands of peasant families are forcibly removed from their land, either by state or private police, without any compensation or plans for resettlement. This is particularly the case in Colombia, Brazil, Indonesia and the Philippines, where agrarian conflicts are very violent,[16] and also in a number of countries, for example Guatemala, which lack an effective land register.[17]

Furthermore, thousands of peasants become victims of compulsory displacement as a result of new development projects or the increase in mining activities. In India, for example, numerous cases of enforced displacement have been reported by civil society and experts from the United Nations.[18] Thousands of peasant families were forcibly evicted to make way for the construction of the Narmada Dams, in spite of a decision by the Indian Supreme Court in 2000.[19] These families were evicted without any real notice or consultation and are now living in the States of Madhya Pradesh, Maharashtra and Gujarat, with neither adequate compensation nor any offer of resettlement.[20]

Two new developments – the production of biofuels and the buying up of foreign land for their production (the global land grab) – have led to a worsening of the situation. In Colombia and Indonesia, for example, hundreds of peasant families have been evicted from their land in the last five years to make way for the production of palm-oil for use as a biofuel.[21] At the same time, millions of hectares of land in countries where food insecurity is already very high have been bought or leased by wealthy nations or by private companies, based mainly in South Korea, China, the United Arab Emirates and Saudi Arabia.[22] The most famous case was the buying up of 1.3 million hectares of arable land in Madagascar by the South Korean company Daewoo, which led to demonstrations and the overthrowing of the President in

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15 C. Golay, *Droit à l'alimentation et accès à la justice*, thesis presented to the University of Geneva, IHEID, 2009, pp. 104-106.

16 Cf. La Vía Campesina, FIAN, *Violations of peasants' human rights. A Report on Cases and Patterns of Violation 2004*; LVC, *Annual Report Peasant Rights Violation,* 2005; FIAN, *Violations of peasants' human rights. A Report on Cases and Patterns of Violation 2005*.

17 Cf, for example, The Report of J. Ziegler, the Special Rapporteur on the Right to Food, on his mission to Guatemala E/CN.4/2006/44/Add.2.

18 Cf, for example, The Report of J. Ziegler, the Special Rapporteur on the Right to Food, on his mission to India E/CN.4/2006/44/Add.1.

19 Supreme Court of India, *Narmada Bachao Andolan v. Union of India*, 2000.

20 Information on the consequences of the Narada dams is available on the site of the independent organisation: www.narmada.org and on the Indian government site www.nvda.nic.in.

21 Cf. in particular, F. Mingorance, *The Flow Of Palm Oil Colombia-Belgium/Europe. A study from a human rights perspective*, 2007: http://www.cbc.collectifs.net/doc/resumen-en.pdf.

22 C. Smaller and H. Mann, *A Thirst for Distant Lands: Foreign investment in agricultural land and water*, International Institute for Sustainable Development, 2009.

March 2008. In countries such as Sudan, Ethiopia and Cambodia, thousands of peasant families have also been displaced as a result of the sale of land.[23]

In the near future, it is likely that the number of evictions and enforced displacements of peasant families will continue to rise, leading to further violations of the rights of peasants. As was stated by the member groups of la Vía Campesina in the Final Declaration of the International Conference on Peasants' Rights: "We are being increasingly and violently expelled from our lands and alienated from our sources of livelihoods. Mega development projects such as big plantations for agrofuels, large dams, infrastructure projects, industrial expansion, extractive industry and tourism have forcibly displaced our communities, and destroyed our lives." [24]

4. The appropriation of seed by transnational corporations

Together with land and water, seeds are the most important resource that peasant families need in order to secure their food supply. It is therefore not surprising that the protection of seed forms a central part of la Vía Campesina's definition of food sovereignty, which highlights the necessity of "protecting seeds, the basis of food and life itself, for the free exchange and use of farmers." [25]

Until recently, peasant families were free to use seeds in whatever way they required: for replanting, for keeping, for selling or exchange. But this freedom, inherent in the peasants' work, is now being threatened by the control exercised by a handful of transnational corporations on the seed market and by their patents on improved or genetically-modified seeds.[26] A third of the entire global seed market is in the hands of just ten corporations, including Aventis, Monsanto, Pioneer and Syngenta. Monsanto alone controls 90% of the global market in genetically-modified seeds.

These 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, so-called 'terminator' seeds. Then, in the face of hostile public opinion, they changed tack and today defend their patents with an increasing number of legal actions against peasants who use their seeds without paying them royalties. Monsanto, for example, has brought hundreds of legal actions against peasants in recent years.

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, 200,000

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[23] Cf. L. Cotula, S. Vermeulen, R. Leonard and J. Keeley, *Land grab or development opportunity? Agricultural investment and international land deals in Africa*, FAO, IIED, IFAD, 2009.

[24] Cf Final Declaration of the International Conference on Peasants' Rights, Jakarta, 24th June 2008, available on the Vía Campesina website: http://www.viacampesina.org/main_en/index.php?option=com_content&task=view&id=572&Itemid=1.

[25] Cf Final Declaration of the NGO Forum for Food Sovereignty held in parallel with the World Food Summit: *Five Years Later*, 2002: www.foodfirst.org/progs/global/food/finaldeclaration.html.

[26] Cf General Assembly, *Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation,* Report of the Special Rapporteur on the right to food, O. De Schutter, A/64/170, 23 July 2009.

peasants have committed suicide since 1997, largely because they had become dependant on seeds supplied by the transnational corporations, and had amassed debts that they could not repay.[27]

5. Criminalisation, arbitrary arrest, torture and extrajudicial executions

When the peasants organize themselves to claim their rights, they are often treated as criminals, arbitrarily arrested and detained or become the victims of summary executions by the state or private police forces. Every year, thousands of peasants thus become victims of violations of their civil and political rights. It is often the leaders of the peasant cause who suffer the gravest violations of their rights, by being arbitrarily arrested, imprisoned, tortured or executed. In the Philippines, for example, three peasant leaders were struck down between November 2008 and June 2009. Vicente Paglinawan, Vice President of the National Coordination of peasant groups for the island of Mindanao, was killed on 22nd November 2008; Eliezer Billanes, Secretary General of a peasants' union was killed on the 9th March 2009; and Renato Penas, who had just been elected Vice President of the National Coalition of Peasant Organizations in March 2009, was killed on the 5th June 2009.[28]

At the same time, hundreds of peasants each year are treated as criminals, for simply taking part in demonstrations or for peacefully resisting forced eviction. In Guatemala, for example, the fact that there has never been a land register allows the big landowners to expel peasant families from their lands, claiming that they are living there illegally. These peasant families are then treated as criminals. In 2005, Amnesty International denounced this practice, pointing out 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."[29]

To mark these violations of peasants' rights, la Vía Campesina has declared the 17th April of every year as the International Day of the Peasant Struggle. The date was chosen to commemorate the massacre of Eldorado de Carajás on the 17th April 1996, in which the military police of the State of Pará gunned down, with complete impunity, 19 Brazilian peasants taking part in a peaceful march organized by the Landless Workers Movement (MST).[30]

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[27] V. 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, 10th September 2009.

[28] Cf. PAKISAMA Statement on the Assassination of Renato Penas, National Vice-President: www.asianfarmers.org.

[29] Amnesty International, *Memorandum to the Government of Guatemala: Amnesty International's concern* regarding the current human rights situation, 2005.

[30] Cf. Amnesty International, *Brazil: Rural violence, political brutality and impunity*, 1998, available online at: www.amnesty.org/en/library/info/AMR19/001/1998. Also see, La Vía Campesina, *Join the International Day of the Peasant Struggle!*, 2009.

II. CURRENT RECOGNITION OF THE RIGHTS OF PEASANTS IN INTERNATIONAL HUMAN RIGHTS LAW

According to *la Vía Campesina*, the current mechanisms for safeguarding human rights suffer two major failings which prevent the adequate protection of the rights of peasants. Firstly, peasants' rights are not recognized in their entirety; secondly, such protection as does exist is ineffectual and continues to be flouted with impunity. In the second part of this critical report, we will consider the relevance of the first major failing identified by la Vía Campesina by describing the current recognition of the Rights of Peasants as it exists in International Law on Human Rights.

The rights of peasants are not subject to any specific protection under international law. However, peasants, like all human beings, benefit from the protection of rights enshrined in the universal instruments for the protection of human rights, in particular the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1) and the International Covenant on Civil and Political Rights (ICCPR) (2). As a complement to this universal protection, women peasants and indigenous peasants also benefit from the protection granted by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and by the United Nations Declaration on the Rights of Indigenous Peoples (3).

1. Economic, Social and Cultural Rights

Many of the economic, social and cultural rights enshrined in the ICESCR have been interpreted by UN experts as offering significant protection for peasants' rights. Of these, the most important are the right to food, the right to adequate housing and the right to health.

The right to food

The right to food is enshrined in Article 25 of the Universal Declaration of Human Rights and in Article 11 of the ICESCR.[31] In a number of UN documents, it has been interpreted as the right of all people to "be able to feed themselves, by their own means, with dignity".[32] It has also been interpreted as "the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear."[33]

According to the Right to Food Guidelines, adopted unanimously by the member States of the UN Food and Agriculture Organization (FAO) in November 2004, the right to food protects the right of peasants to have access to productive resources or the means of production, including land, water, seeds, microcredit, forests, fish and

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[31] C. Golay, M. Özden, *The Right to Food*, CETIM, 2005, http://www.cetim.ch/en/publications_brochures.php. Also see, C. Golay, *The Right to Food and Access to Justice: Examples at the National, Regional and International Levels*, FAO, 2009.

[32] Human Rights Council, *Report of the Special Rapporteur on the right to food, Jean Ziegler*, A/HRC/7/5, 10th January 2008, § 18.

[33] Commission on Human Rights, *The right to food. Report by Mr. Jean Ziegler the Special Rapporteur on the right to food*, E/CN.4/2001/53, 7th February 2001, § 14.

livestock.[34] In the same guidelines, States recommended the following: "States should pursue inclusive, non-discriminatory and sound economic, agriculture, fisheries, forestry, land use, and, as appropriate, land reform policies, all of which will 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." [35]

The States also unanimously accepted their obligations to respect, protect and to fulfil the right to food in the following way: "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." [36]

This interpretation of the right to food already offered significant protection to the rights of peasants, but the Committee on Economic, Social and Cultural Rights (CESCR) took it further by pointing out that on the basis of the ICESCR, member States were under an obligation to ensure sustainable access to water for agriculture in order to implement the right to food, and that they should ensure that the most disadvantaged and marginalized workers, including women, had access, on an equal basis, to water and water management, and especially to sustainable techniques for gathering rain water and for irrigation.[37]

Furthermore, in several of its concluding observations, the Committee set out the need to protect peasant families' access to seed. In its concluding observations addressed to India, for example, it urged the State to "provide state subsidies to enable farmers to purchase generic seeds which they are able to re-use, with a view to eliminating their dependency on multinational corporations." [38]

The right to adequate housing

The right to adequate housing, like the right to food, is enshrined in Article 25 of the Universal Declaration of Human Rights and Article 11 of the ICESCR.[39] In its General Comment n°4, the Committee on Economic, Social and Cultural Rights states that the right to housing should not be interpreted in a narrow or restrictive sense which 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 se-*

[34] FAO, Guideline No 8 on the right to food. The guidelines on the right to food are available, see Annexes.
[35] FAO, Guideline No 2.5 on the right to food.
[36] FAO, Guidelines No 8.1 & 8.6 on the right to food
[37] CESCR, *General Comment n°15: The Right to Water (Articles. 11 and 12)*, § 7, adopted 20th January 2003.
[38] CESCR, *Concluding Observations, India* May 2008 E/C.12/IND/CO/5, § 69. Cf also, Cf General Assembly, *Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation,* Report of the Special Rapporteur on the right to food, Olivier De Schutter, A/64/170, 23 July 2009, § 5.
[39] Cf. C. Golay, M. Özden, *The Right to Housing*, CETIM, 2007.

curity, peace and dignity."[40] The former UN Special Rapporteur on the right to adequate housing defined it like this: "The human right to adequate housing is 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."[41]

On the basis of the ICESCR, every person – including peasants – has a right to housing which guarantees at all times the following minimum conditions:

- 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;
- a suitable location, which means removed from sources of pollution while being close to schools and healthcare services.[42]

The Committee on Economic, Social and Cultural Rights provided that States 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."[43] These forced evictions are prima facie (self-evidently) incompatible with the States' obligations under the ICESCR and "notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."[44]

In a number of reports, the former Special Rapporteur on the right to adequate housing has also emphasized the need to put an end to forced evictions and he has produced the *Basic Principles and Guidelines on Development-Based Evictions and Displacement*.[45] According to these guidelines, it is, for example, a violation of the right to adequate housing when a government evicts peasant families from their land without ensuring that the families concerned have been adequately consulted and re-housed in equivalent conditions or have received adequate compensation.

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[40] CESCR, *General Comment n°4 The right to adequate housing* (Art. 11 , para 1), § 7, adopted 13th December 1991.

[41] Cf Report of the Special Rapporteur on adequate housing, presented at the Fifty-seventh session of the Commission on Human Rights, E/CN.4/2001/51, 25th January 2001, § 8.

[42] CESCR, *General Comment n°4 The right to adequate housing* (Art. 11 , para 1), § 8.

[43] CESCR, *General Comment n°7 The right to adequate housing (art. 11 para 1): forced evictions*, § 3, 20th May 1997.

[44] Ibid.

[45] Human Rights Council, *Basic principles and guidelines on development-based evictions and displacement set out by the UN Special Rapporteur on adequate housing in Human Rights Council Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari*, 5th February 2007, A/HRC/4/18, See Annexes.

The right to health

The right to health is enshrined in Article 25 of the Universal Declaration of Human Rights and Article 12 of the ICESCR.[46] In its General Comment n°14, the Committee on Economic, Social and Cultural Rights defines it as "the right to enjoy the highest attainable standard of health conducive to living a life in dignity."[47]

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. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels." [48]

According to the ICESCR, States are required to ensure that medical services and the underlying determinants of health are available to all, including those in rural areas.[49] States have a minimum core obligation to provide, as a minimum and at all times, the following:

- 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 which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;
- access to basic shelter, housing and sanitation, and an adequate supply of safe drinking water;
- essential drugs, as periodically defined under the WHO Action Programme on Essential Drugs.[50]

2. Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) protects peasants, as it protects all human beings. In particular the right to life, the right to be free from arbitrary detention, the right to a fair trial, and the rights to freedom of expression and freedom of association are fundamental rights of all peasants.

The Human Rights Committee, which oversees the implementation of the ICCPR, stressed the fundamental importance of the right to life in its General Comment no 6. According to the HRC:

"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 considers 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

[46] CETIM, *The Right to Health*, CETIM, 2006, http://www.cetim.ch/en/publications_brochures.php.
[47] CESCR, *General Comment n°14: The Right to the Highest Attainable Standard of Health (Art. 12)*, § 1, 11th May 2000.
[48] Idem, § 4.
[49] Idem, §§ 12 et 36.
[50] Idem, § 43

security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity."[51]

On the basis of the ICCPR, all human beings also have the right not to be arbitrarily arrested or detained and the right to have access to a judge and a fair trial if they are arrested (Articles 9 & 14). Anyone deprived of his or her liberty has the right to be treated humanely and with respect (Article 10). All people similarly have the right to freedom of expression, the right of free association with others, including the right to form and join trade unions for the protection of their interests, and the right to peaceful assembly (Articles 19, 21 & 22).

Arbitrary arrests and detentions and extrajudicial executions of peasant leaders are therefore serious violations of the ICCPR, as are infringements on their freedom of expression, freedom of association and the right to peaceful assembly by peasant movements.

3. The Rights of Women and Indigenous Peoples

One of the major aims of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is to put an end to discrimination against women in rural areas. [52] Article 14 of the Convention specifically protects the rights of women living in rural areas against discrimination in their access to resources, including land, and in their access to work, adequate housing and programmes for social security, health and education. According to this Article: "1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas. 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (a) To participate in the elaboration and implementation of development planning at all levels; (b) To have access to adequate health care facilities, including information, counselling and services in family planning; (c) To benefit directly from social security programmes; (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency; (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment; (f) To participate in all community activities; (g) 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; (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications."

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[51] Human Rights Committee, *General Comment n°6, The Right to Life (article 6)*, § 3, adopted in 1982.

[52] Cf. K. Frostell, M. Scheinin, "Women" *in* A. Eide, C. Krause, A. Rosas (ed), *Economic, Social and Cultural Rights. A Textbook*, pp. 338-349.

In several of its concluding observations, the Committee on the Elimination of Discrimination against Women, which oversees the implementation of the Convention by States parties, required that women in rural areas should be given priority in development programmes and that the State should appeal, if necessary, for international assistance and cooperation.[53] In other concluding observations, it recommended that the State party should protect women's access to land against the activities of private business and against forced evictions.[54] In its concluding observations addressed to India for example, it made the following recommendation: "The Committee urges the State party to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property."[55]

The Convention on the Elimination of All Forms of Discrimination against Women and the Expert Committee which it set up offers, therefore, significant protection for the rights of women peasants.

Indigenous peasants possibly suffer even more than other groups from forced evictions and displacements. Until recently, the only international instrument that offered them any specific protection was the ILO C169 Indigenous and Tribal Peoples Convention of 1989, ratified by 20 States. This ILO Convention protects a large number of civil, political, economic, social and cultural rights. In particular, Articles 13 to 17 enshrine the rights of indigenous people to their land, their territories, and their right to participate in the use, management and conservation of these 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.

The adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the Human Rights Council in June 2006, and by the General Assembly in December 2008, represented therefore a major step forward in the protection of the rights of indigenous peasants.[56] The Declaration begins by recognizing that indigenous peoples, both individually and collectively, have the right to the full enjoyment of all human rights and all fundamental liberties recognized in the United Nations Charter, the Universal Declaration of Human Rights and in international human rights law. It then goes even further than the ILO Convention, in recognizing that indigenous people also have the right of self-determination and the right to land and resources. It refers to the injustices that occurred as a result of colonialism and highlights the threat that globalization currently poses. It recognizes the importance of traditional knowledge, biodiversity and the safeguarding of genetic resources and calls for limits on activities that third parties can carry out on the lands belonging to indigenous communities.

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53 Cf, for example, CEDAW, *Final Comments. Gabon*, 28th January 2005, A/60/38, Part. I, §§ 247-248.

54 Cf, for example, CEDAW, *Final Comments. Cambodia*, 25th January 2005, A/60/38, A/61/38, Part. I, § 49.

55 CEDAW, *Final Comments. India*, 20th February 2007, A/62/38, Part. I, § 184.

56 General Assembly, *Report by the Special Rapporteur on the right to food, Jean Ziegler*, A/61/306, 1st September 2006, §§ 41-44.

The adoption of the United Nations Declaration on the Rights of Indigenous Peoples represents a major step forward in safeguarding the rights of indigenous peasant populations, which goes far beyond the rights enshrined in the ICCPR and the ICESCR. The fact that the Declaration has already been taken up by certain countries, such as Bolivia, and adopted in their national law enshrines these rights at the national level and should allow indigenous populations to demand legal remedies in the case of violations.

III. THE ADOPTION OF THE DECLARATION OF THE RIGHTS OF PEASANTS BY LA Vía CAMPESINA

La Vía Campesina is the largest group of peasant organizations that has ever been created. It came into being in 1993, two years before the creation of the World Trade Organization (WTO), to defend the life, land and dignity of peasant families all over the world. La Vía Campesina's main concern has always been food sovereignty.[57] However, for more than ten years now, it has also worked on the promotion and protection of the rights of peasants. As already stated, la Vía Campesina, in collaboration with the NGO FIAN International, has published annual reports in 2004, 2005 and 2006, detailing violations of the rights of peasants worldwide. In June 2008, after several years of internal discussion and consultation, it adopted the *Declaration of the Rights of Peasants - Women and Men.*[58]

After describing the process leading up to the adoption of the *Declaration of the Rights of Peasants - Women and Men* by la Vía Campesina in June 2008 (1), we will look at the content of the Declaration (2) and la Vía Campesina's call to action (3).

1. The adoption of the Declaration of the Rights of Peasants – Men and Women at the la Vía Campesina Conference on the Rights of Peasants, in Jakarta, June 2008

After a consultation process which lasted seven years, and involved its member groups, la Vía Campesina adopted the *Declaration of the Rights of Peasants – Men and Women* at the International Conference on Peasants' Rights in Jakarta in June 2008. The conference brought together about a hundred delegates drawn from 26 countries and representing the various peasant groups that make up la Vía Campesina.

The adoption of the Declaration was the final stage of a long process of drafting and consultation. The first draft of the declaration on the rights of peasants was presented to la Vía Campesina's Regional Conference on the Rights of Peasants which was held in Jakarta in April 2002, following various conferences and events in 2000 and 2001.[59] The wording of the Declaration was discussed by individual member organizations and was finalized at the International Conference on the Rights of Peasants

[57] CETIM, *Vía Campesina. Une alternative paysanne à la mondialisation néolibérale*, 2002.

[58] La Vía Campesina, *Declaration of the Rights of Peasants – Women and Men*, 2008: http://viacampesina.net/downloads/PDF/EN-3.pdf.

[59] H. Saragih, "Les paysans du monde ont besoin d'une convention protégeant leurs droits: le rôle attendu de l'ONU" *in ONU. Droits pour tous ou loi du plus fort ?*, Geneva, CETIM, 2005, pp. 349-365.

in 2008. The International Co-ordination Committee of la Vía Campesina ratified the final text in Seoul in March 2009.

The fact that la Vía Campesina is made up of more than 140 peasant organizations from nearly 70 different countries and represents more than 200 million peasants, and the fact that their Declaration was adopted after a long process of internal discussion, gives the *Declaration of the Rights of Peasants – Men and Women* a great deal of authority.

2. The content of the Declaration of the Rights of Peasants – Men and Women

La Vía Campesina's Declaration follows the same structure as the United Nations Declaration on the Rights of Indigenous Peoples. It begins with a long introduction which recalls the large number of peasants all over the world who have fought throughout history for the recognition of peasants' rights, and for free and just societies, and concludes with the hope that this declaration represents a major step forward in the recognition, promotion and protection of the rights and liberties of peasants.

The first Article of the *Declaration of the Rights of Peasants* gives a definition of who peasants are, according to which: "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 and/or other agricultural products. Peasants work the land themselves, 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. 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.

The term peasant also applies to landless peasants. According to the UN Food and Agriculture Organization (FAO 1984) definition[1], 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."

In Article 2, the Declaration reaffirms that women peasants have equal rights to men and that all peasants have the right to the full enjoyment, collectively or as individuals, of all those human rights and fundamental freedoms that are recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law (Article 2, para 1 & 2). It also states that peasants (women and men) are free and equal to all other people and individuals 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 (Article 2, para 3). It then declares that peasants (women and men) have the right to actively participate in policy design, decision making, imple-

mentation, and monitoring of any project, program or policy affecting their territories (Article 2, para 4).

Following the model of the United Nations Declaration on the Rights of Indigenous Peoples, the *Declaration of the Rights of Peasants – Men and Women* reaffirms the existing civil, political, economic, social and cultural rights of peasants, and reinforces them by incorporating new rights, such as the right to land, the right to seeds and the right to the means of agricultural production. These new rights are aimed at giving full protection to peasant families and forcing States to put an end to the types of discrimination from which peasants suffer.

The Declaration adopted by la Vía Campesina reaffirms the right to life and to an adequate standard of living (article 3); the right to freedoms of association, opinion and expression (article 12); right to have access to justice (article 13). In addition, it also recognizes the following new fundamental rights: the right to land and territory (article 4); the right to seeds and traditional agricultural knowledge and practice (article 5); the right to the means of agricultural production (article 6); the right to information and agricultural technology (article 7); the freedom to determine price and market for agricultural production (article 8) ; the right to the protection of local agricultural values (article 9); the right to biological diversity (article 10); the right to preserve the environment (article 11).

3. La Vía Campesina's Call to Action

For la Vía Campesina, the adoption of the Declaration of the Rights of Peasants is only a first step and needs to be followed by the drawing up of an International Convention on the Rights of Peasants by the United Nations, with the full participation of la Vía Campesina and other representatives of civil society.[60] To this end, la Vía Campesina is hoping to receive "the support of the people who are concerned with the peasants' struggle and the promotion and protection of the rights of peasants."[61]

On several occasions la Vía Campesina has called for regional, national and international action to mobilize support for the recognition of the rights of peasants. On 21st June 2008, in the Final Declaration of the International Conference on the Rights of Peasants, it declared: "A future Convention on Peasant Rights will contain the values of the rights of peasants - and should particularly strengthen the rights of women peasants - which will have to be respected, protected and fulfilled by governments and international institutions.For that purpose, we commit ourselves to develop a multi-level strategy working simultaneously at the national, regional and international level for raising awareness, mobilizing support and building alliances with not only peasants, but rural workers, migrant workers, pastoralists, indigenous peoples, fisher folks, environmentalists, women, legal experts, human rights, youth, faith-based, urban and consumers organizations …We will also seek the support of governments, parliaments and human rights institutions for developing the convention on peasant rights. We call on FAO and IFAD to uphold their mandates by contributing to the protection of peasant rights. We ask FAO's department

[60] Cf. La Vía Campesina, Introduction to the *Declaration of the Rights of Peasants – Men and Women.*
[61] Ibid.

of legal affairs to compile all FAO instruments protecting peasant rights as a first step towards this purpose. We will bring our declaration on peasant rights to the UN Human Rights Council." [62]

IV. THE CURRENT STATE OF DISCUSSIONS ON THE RIGHTS OF PEASANTS WITHIN THE UNITED NATIONS

The United Nations was slow to respond to the demands of la Vía Campesina. For several years, CETIM denounced violations of peasants' rights in meetings with the United Nations Commission on Human Rights (UNCHR), before the annual reports of la Vía Campesina and FIAN were presented at parallel events, to a relatively small audience. The Human Rights Council was created in June 2006 and it was only with the work of its Special Rapporteur on the right to food and its Advisory Committee in response to the global food crisis, that peasants' rights were really discussed by the United Nations. In 2009 la Vía Campesina was invited by the Human Rights Council and the UN General Assembly to give its point of view on the food crisis and the way in which it might be remedied. It was at this point that la Vía Campesina presented its *Declaration on the Rights of Peasants* as one of the solutions to the food crisis.[63]

1. Debates at the General Assembly and the UN Human Rights Council

Since his appointment as UN Special Rapporteur on the Right to Food in May 2008, Olivier de Schutter has made significant contributions to the debate about the food crisis and the right to food and has highlighted very clearly the need to restore the role of small-scale peasant farmers and agricultural workers in the fight against hunger.

In May 2008, Olivier de Schutter called on the Human Rights Council to hold a special session on the food crisis and its impacts on the right to food.[64] The *first thematic special session* in the history of the Human Rights Council was held on May 22, on the food crisis and the right to food, and a resolution entitled 'The negative impact of the worsening of the world food crisis on the realization of the right to food for all' was adopted unanimously.[65]

In a very interesting passage from this resolution, the Human Rights Council called upon "States, individually and through international cooperation and assistance, relevant multilateral institutions and other relevant stakeholders (…) to consider **reviewing any policy or measure which could have a negative impact on the realization of the right to food**, particularly the right of everyone to be free from hunger, before instituting such a policy or measure."[66] According to this resolution,

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[62] Cf Final Declaration of the International Conference on Peasants' Rights, 2008: http://www.viacampesina.org/main_en/index.php?option=com_content&task=view&id=572&Itemid=1

[63] La Vía Campesina Statement at The UN General Assembly, 6th April 2009, available on La Vía Campesina website.

[64] Human Right Council, *Background Note: Analysis of the World Food Crisis by the U.N. Special Rapporteur on the Right to Food*, O. de Schutter, 2 May 2008, p. 14.

[65] Human Rights Council, *The negative impact of the worsening of the world food crisis on the realization of the right to food for all*, A/HRC/S-7/1, 22nd May 2008, quoted in Human Rights Council, Report of the Human Rights Council On Its Seventh Special Session, A/HRC/S-7/2, 17th July 2008, pp. 3-5.

[66] *Ibid*., § 3.

the production of agrofuels, financial speculation and the free-market liberalization of agriculture should be assessed according to the impact they might have on the right to food, particularly for peasants.

Following this special session, the Special Rapporteur on the right to food presented a number of reports on the food crisis in 2008 and 2009, in which he stressed the need to protect small peasants. In his most recent report, presented to the General Assembly in October 2009, he lays particular emphasis on the need to protect peasant families' access to seed.[67]

In 2009, representatives of la Vía Campesina were also invited at the Human Rights Council and at the UN General Assembly. At the Human Rights Council, on March 9, 2009, a representative of la Vía Campesina discussed solutions to the food crisis in a debate organized by the Human Rights Council with the High Commissioner for Human Rights, N. Pillay, D. Nabarro, Coordinator of the Task Force on the Global Food Security Crisis, the Special Rapporteur on the right to food, Olivier de Schutter, and J. Ziegler, member of the Advisory Committee. A month later, another representative of la Vía Campesina was invited to take part in an interactive thematic dialogue of the UN General Assembly on April 6, 2009, devoted to the food crisis and the right to food.

Paul Nicholson represented la Vía Campesina at the Human Rights Council on March 9, 2009 and Henry Saragih was their representative at the General Assembly on the April 6, 2009. In their opening speeches and in the debates that followed, the two representatives of la Vía Campesina put particular emphasis on the violations of peasants' rights, which have further increased during the food crisis. They then put forward their view that the *Declaration of the Rights of Peasants – Men and Women* and the adoption of a UN Convention on Peasants' Rights could form the basis of a solution to both the discrimination against peasants and the food crisis.[68] Their arguments were well received by the different parties and it was clearly understood that the protection of peasants' rights should be an integral part of the work of the Advisory Committee of the UN Human Rights Council.

2. The work of the Advisory Committee of the UN Human Rights Council

The Advisory Committee of the Human Rights Council was created at the same time as the Human Rights Council itself in June 2006.[69] After a long inauguration period, the 18 members of the Advisory Committee were elected in March 2008 and their first working session took place in August 2008. From the start, the Advisory Committee has been mandated to work on two specific areas: education on human rights and the right to food. It was in relation to the right to food that the Advisory Committee discussed the need to protect peasants' rights.

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[67] General Assembly, *Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation.* Report of the Special Rapporteur on the right to food, O. de Schutter, A/64/170, 23 July 2009.

[68] Cf. Vía Campesina Statement to The UN General Assembly, 6th April 2009, available on the Vía Campesina website and Statement by P. Nicholson to the UN Human Rights Council, 9th March 2009: http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/83A0C5C3CFF6B0B8C12575740043C2BB?OpenDocument.

[69] CETIM, *The Human Rights Council And Its Mechanisms*, 2008: http://www.cetim.ch/en/publications _cahiers.php

In its Resolution 7/14 on the Right to Food of March 27, 2008, the Human Rights Council stated that '80 per cent of hungry people live in rural areas, and 50 per cent are small-scale farm-holders, and that these people are especially vulnerable to food insecurity, given the increasing cost of inputs, and the fall in farm incomes; that access to land, water, seeds and other natural resources is an increasing challenge for poor producers; and that support by States for small farmers, fishing communities and local enterprises is an element key to food security and provision of the right to food' (Para 10). It then mandated the Advisory Committee to make further recommendations to advance the realization of the right to food (para 34).

In line with this mandate, the Advisory Committee, in its first session, set up a working group to report on the right to food composed of one expert for each region: Mr Bengoa, Ms Chung, Mr Hüseynov, Mr Ziegler and Ms Zulficar.[70] This group was then asked to produce a report on the right to food divided into three parts: the global food crisis and the right to food; the States' obligations; and recommendations on what measures should be taken. In this report, presented to the Human Rights Council in March 2009, the Advisory Committee analyzed the effects of the food crisis on the plight of peasants and recommended to the Human Rights Council that it carry out a study on the "The Current Food Crisis, the Right to Food and Peasants' Rights."[71]

In March 2009, when the recommendations put forward by the Advisory Committee were discussed by the Human Rights Council, it produced a lively debate. Several Latin-American States were in favour of a study on the food crisis, the right to food and peasants' rights, but other States (particularly from the West) were against it. A compromise was reached and was expressed in a Human Rights Council Resolution 10/12 on March 20, 2009, which requested the Advisory Committee to undertake a study on "discrimination in the context of the right to food, including identification of good practices of anti-discriminatory policies and strategies"(para 36).

The study on discrimination in the context of the right to food is due to be presented to the Human Rights Council in March 2010. In preparation, J. Ziegler has produced two working documents. The first document reported on '*noma*', a neglected disease that affects children suffering from malnutrition; the second was entitled '*Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation*'. In this second document, J. Ziegler describes the different kind of peasant farmers and the many forms of discrimination that they have suffered over the centuries. He then introduces the international movement la Vía Campesina and its work to defend peasants' rights.[72]

The two working documents prepared by J. Ziegler were discussed at the third session of the Advisory Council, in August 2009, and the Advisory Council asked the working group on the Right to Food to produce a report on discrimination in the context of the right to food, between now and the end of 2009. In this report, which

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[70] Human Rights Council, *Report of the Advisory Committee on its first session, Geneva 4th-15th August 2008 (A/HRC/AC/2008/1/2)*, A/HRC/10/2, 3rd November 2008.

[71] Human Rights Council, *Report of the Advisory Committee on its second session, Geneva 26th-30th January 2009*, A/HRC/10/68.

[72] Advisory Committee, *Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation*, Working paper by J. Ziegler, A/HRC/AC/3/CRP.5, 4th August 2009.

will be discussed at the fourth session of the Advisory Committee in January 2010, and presented to the Human Rights Council in March 2010, discrimination against peasants will be one of the central themes.

3. Perspectives on the future: how to place the recognition of the rights of peasants at the heart of the United Nations?

The Advisory Committee will present its report on non-discrimination in the context of the right to food to the Human Rights Council in March 2010. Part of this report will be devoted to looking at cases of discrimination against peasants. The Advisory Committee could recommend to the Human Rights Council that it takes into account the adoption of the Vía Campesina's *Declaration of the Rights of Peasants – Men and Women* and investigates the various ways in which the UN could recognize and protect peasants' rights.

In the next months, la Vía Campesina's call for action will be essential to convince States on the need to offer a complete protection of peasants' rights by the adoption of a new instrument. The opportunities to develop new instruments to protect human rights within the United Nations are relatively restricted. But they exist. In the past, recognition of unacceptable forms of discrimination against women, indigenous peoples or migrants led States to adopt new conventions or declarations. There is no objective reason which would explain that discriminations experienced over centuries by peasant families should not be recognized by States and a new international instrument be introduced to bring this discrimination to an end.

CONCLUSION

Throughout ancient and recent history, peasants have always been among the first victims of hunger and many forms of discrimination. Massive violations of human rights, including the right to food, have been reported by la Vía Campesina and most have been committed with impunity. This situation has been aggravated by the outbreak of the food crisis in 2007 and 2008, and some of the measures chosen by States to remedy the situation, such as the purchase of foreign land, will undoubtedly lead to new violations of peasants' rights.

In order to put an end to the repeated violations of peasants' rights, la Vía Campesina adopted the *Declaration of the Rights of Peasants – Men and Women* in June 2008. At the same time, it made the *recognition*, *understanding* and *protection* of peasants' rights among its primary objectives.

The rights of peasants are already partly recognized within the international instruments that protect human rights, such as the ICESCR and ICCPR, the Convention on the Elimination of All Forms of Discrimination Against Women and the UN Declaration on the Rights of Indigenous Peoples. These instruments have been supported by a progressive interpretation of the rights that they protect by monitoring bodies and experts at the United Nations Human Rights Council. In the Voluntary Guidelines on the Right to Food adopted in November 2004, States have also accepted this progressive interpretation and have taken a commitment to respect, protect and fulfil peasants' rights.

However, the need to recognize the rights of peasants within the United Nations, as conceived by la Vía Campesina, seems to be both useful and necessary. It would be useful to recognize in a single document the numerous rights of peasants that have already been recognized in other international instruments, to increase coherence and visibility. But it would also be necessary, at least for two reasons: first, because the current recognition of peasants' rights is not providing sufficient protection to peasant families, in particular against the growing control over food and productive resources exercised by multinationals; second, because it will force States to take action against the discrimination faced by peasants. It *must* be backed up by the recognition of new rights for peasants, such as the right to land, to seed and to the means of production.

Since 2007, States have made several commitments to re-invest in rural development policies and in sustainable local food production to cope with the food crisis.[73] But the same commitments were already made in 1974 and 1996, after similar food crises, without real effects. These promises were never kept and the number of hungry people continued to increase before exploding in 2008 and 2009. The recognition of the rights of peasants within the United Nations would be an important step to guarantee that the current commitment are not an idle dream.

ANNEXES

1. *Declaration of Rights of Peasants - Women and Men, adopted by la Vía Campesina International Coordinating Committee in Seoul, March 2009;*
2. *Annual Report: Violations of Peasants' Human Rights. A Report on Cases and Patterns of Violence 2006;*
3. *Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation, Working paper by Mr. Jean Ziegler member of the UN Human Rights Council Advisory Committee, A/HRC/AC/3/CRP.5 , 4th August 2009;*
4. *Preliminary report to the drafting group of the Human Rights Council Advisory Committee on the Right to Food, Working paper by Mr. Jean Ziegler, member of the UN Human Rights Council Advisory Committee, A/HRC/AC/2/CRP.2, 19th January 2009;*
5. *Seed policies and the right to food: enhancing agrobiodiversity and encouraging innovation, Report of the Special Rapporteur on the right to food, Olivier De Schutter, to the General Assembly,, A/64/170, 23rd July 2009;*
6. *Report of the Special Rapporteur on the right to food, O. De Schutter, to the Human Rights Council, A/HRC/12/31, 21st July 2009;*
7. *Guidelines on the Right to Food, unanimously adopted by member states of the FAO in November 2004;*
8. *Resolution A/HRC/10/L.25, Human Rights Council, The Right to Food, 20th March 2009;*
9. *Resolution 7/14, Human Rights Council, The Right to Food, 27th March 2008;*
10. *Resolution A/HRC/S-7/2, Human Rights Council, 22nd May 2008, Report of the Human Rights Council on Its Seventh Special Session, 17 July 2008;*

[73] Human Rights Council, *Report of the Special Rapporteur on the Right to Food, O. de Schutter*, A/HRC/12/31, 21st July 2009, §§ 13-25.

11. *Report of the Advisory Committee on its First Session (Genève 4-15 August 2008, A/HRC/10/2) to the Human Rights Council, A/HRC/AC/2008/1/2 (3 November 2008, 1er document);*
12. *Publication by Christophe Golay, The Right to Food and Access to Justice: Examples at the National, Regional and International Levels, FAO, 2009.*

Acknowledgement
This report received support from the state (canton) of Geneva, from the municipalities of Meyrin and Confignon, Loterie romande, Ritimo, Entraide et fraternité and Emmaüs International. It is part of the CETIM's Human Rights Program, itself supported by (September 2009) the Swiss Agency for Development and Cooperation (DDC), the cities of Geneva, Lausanne and the municipalities of Plan-les-Ouates, Lancy and Onex and Caritas Switzerland.

N.B. The Annexes allocated in separate files.