

THE UNITED NATIONS' DECLARATION ON PEASANTS' RIGHTS

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A turning point in human rights law

When the United Nations General Assembly adopted, by a large majority, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP),¹ it established a new milestone in the historical development of human rights law. The UNDROP is the first global instrument to specifically affirm the rights of peasants – the millions of small-scale agricultural producers who, in the words of the declaration, rely significantly on family labour and have a special attachment to the land.² And while non-governmental organisations often front human rights advocacy, the UNDROP is the culmination of a long-term struggle that peasant movements directly led from grassroots to global level, developing a novel approach to agency and representation in international policymaking.³

Compared to other human rights instruments, the UNDROP more explicitly connects rights to economic relations and control over the means of production. The affirmation of peasants' human right to land exemplifies this shift,⁴ as does the prominence given to land issues throughout the Declaration. With land playing a foundational role in rural livelihoods and ways of life, the right to land crystallises peasants' deep sociocultural connection to it and its central place in peasants' struggles. Although contexts vary widely, land struggles often revolve around demanding agrarian reform, challenging privatisation, and protecting small-scale producers from large-scale plantations or increased agribusiness control over value chains.

In claiming the right to land, peasant movements have sought to overcome the limitations that conventional human rights constructs have long displayed in sustaining those struggles. For example, the internationally recognised right to property can protect peasants' land rights, including those based on customary systems,⁵ but landed elites can – and do – invoke the same right to prevent redistributive reforms.

And while indigenous peoples have reconfigured the right to collective property as part of efforts to resist extractive industry projects, they often struggle to translate judicial wins into real change, while the very concept of property can contrast with indigenous conceptions of the relationship between humans and nature.⁶

Because land can provide the basis for livelihoods, shelter, ways of life and social identity, the internationally recognised rights to food, housing and culture may require states to address land issues.⁷ For example, where people source their food directly from the land, protecting their land rights may be a key part of a state's obligation to progressively realise their right to adequate food.⁸ These intersections between land and human rights are compelling, but they are also indirect, mediated by the role of land in providing food, housing or the foundations of culture.

International instruments recognise indigenous peoples' rights over their ancestral territories and link control over land to the collective right to self-determination.⁹ As recognised in the UNDROP,¹⁰ peasants can be of indigenous descent and thus entitled to these rights. But leaving aside the limitations of these rights,¹¹ and of the ways they are 'domesticated' in national legal systems,¹² the special nature of such arrangements excludes many people with strong connections to the land but no claim to indigeneity.

Meanwhile, the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) call on states to recognise, respect, and protect all legitimate tenure rights, including those not protected by law.¹³ In 2012, the (United Nations) Committee on World Food Security (CFS) endorsed the VGGT as the most comprehensive global soft-law instrument on land and resource governance. As well as protecting peasants' land rights where national legal systems marginalise them, implementing the VGGT would also guide land restitution and redistribution.¹⁴ The guidelines establish a strong bond between tenure and human rights, and human rights bodies have referenced them when interpreting human rights treaties.¹⁵ But the VGGT are non-binding, primarily address tenure – rather than human rights – and are located outside the international human rights system.

Building on this tapestry of human rights configurations, the UNDROP's affirmation of peasants' right to land represents a turning point in longstanding efforts to connect land to human rights. It raises questions about the legal contours of the right to land and how this newly affirmed right complements, and intersects with, other human rights. Although such questions are theoretical, they also have practical implications. Restrictive interpretations can hollow out the emancipatory potential of a new right from within, while clarifying the full reverberations of that right can facilitate its use in processes of change. It is therefore important to explore the social, economic, and political circumstances that led to the affirmation of the right to land, what the right to land entails in practice and its potential for bringing about the change peasant movements are fighting for around the world.

The land question and peasants' rights

The right to land is steeped in decades of agrarian struggles. While recognising the limitations of legal processes, peasant movements have long mobilised rights not

only to challenge the building blocks of economic ordering,¹⁶ but also to articulate, in more proactive terms, their vision of agrarian reform and locally controlled food systems.¹⁷ Transnational agrarian movement La Via Campesina has been at the forefront of these efforts, integrating rights language in its advocacy and calling for a United Nations instrument that would solemnly affirm the rights of peasants.¹⁸

Part of wider political mobilisation that gained momentum from the early 1990s, this global advocacy responded to policy and market forces that increased pressure on the rural world, particularly in the global South, including: 'structural adjustment' programmes imposed by international financial institutions, which reduced state support for farmers in poorer countries; the decline of public intervention in agricultural markets, which increased farmers' exposure to commodity price fluctuations; growing corporate concentration in, and control of, agricultural value chains; and the reconfiguration of international trade in agriculture under terms that favour agribusiness interests.¹⁹

The resulting socio-economic transformations squeezed small-scale rural producers, threatened their connection to the land, and undermined their demands for agrarian reform. An emerging body of evidence points to growing inequality in control over land worldwide.²⁰ Starting in the mid-2000s, the decade-long global surge in transnational deals for monoculture plantations came to epitomise the mounting pressures on peasants' lands.²¹ In many contexts, mining, petroleum, and infrastructure projects have compounded these pressures; in others, industrialisation programmes have converted agricultural land into special economic zones for manufacturing activities.²² Although legislation varies in different jurisdictions, recurring features of the law facilitate land transfers to these large-scale projects. From the structural marginalisation of peasants' land rights, to national reforms that encourage industrial, mining and agribusiness activities, and international treaties that protect foreign investment, these trends make millions of peasants vulnerable to dispossession from 'legalised land grabs.'²³ Many activists working to defend land rights under pressure from large-scale projects have faced repression and intimidation.²⁴

Meanwhile, demand for food from sprawling urban centres and the integration of more competitive small-scale producers into global value chains have fostered agricultural intensification and commercialisation in many rural areas. In the presence of deep-seated social differentiation – shaped by unequal access to income and means of production, patriarchal social reproduction arrangements, and the weight of age in land decision-making, to mention but a few examples – these processes have underpinned what Ghanaian scholar Kojo Amanor called 'dispossession from below.'²⁵ Those farmers with better resources, information and connections have been able to seize market opportunities, albeit often under terms imposed by buyers. But vast segments of the rural population face barriers in accessing markets, credit, inputs and services, fostering land concentration and dispossession within the smallholder sector.²⁶

National land policies in the global South – including those supported or imposed by international financial institutions – have often compounded these problems, advancing approaches that contrast sharply with the social foundations

of rural realities. For example, policies to individualise and commercialise landholdings have created tensions with customary systems traditionally premised on collective landholding and ‘nested’ rights, on the deep connection between land, family organisation and social identity, or on the imperative of livestock mobility in the face of variable rainfall patterns.²⁷ While social, economic and cultural changes have eroded or transformed many traditional systems,²⁸ this process is often accelerated by official policies that enable urban elites to register rural and peri-urban lands in their names.²⁹ As a result, the land rights of marginalised rural people have become increasingly precarious, while youths and the landless often struggle to access the land they need to start a family.

In these processes of economic reorganisation and social dislocation, reappropriating the notion of ‘peasants’ and advocating for international recognition of their rights became an important strategy in agrarian movements’ struggle for an alternative model of agricultural development.³⁰ The right to land featured prominently from the start. When, in the late 1990s, grassroots-level deliberations in West Java, Indonesia, initiated the process of drafting a ‘Peasants’ Rights Charter,’³¹ the resulting text affirmed that ‘[p]easants and their families have the right to enough land to support them,’³² and ‘the right to legal protection of their farmland, dwellings, natural resources and biological diversity.’³³ Amendments proposed during early consultations with peasants and supportive organisations indicated the need to more explicitly recognise ‘[t]he right for farming laborers to gain ownership of adequate farming land,’³⁴ highlighting that the land question mattered not only to small-scale producers but to farm workers as well.

And when national peasant organisation and Via Campesina member Serikat Petani Indonesia escalated its advocacy, first to regional level and then to global level,³⁵ and LVC adopted the ‘Declaration of Rights of Peasants – Women and Men’ to federate the movement around a clear set of global demands,³⁶ the right to land was a key policy ask. The declaration frames the connection to land as a fundamental feature of peasant identity, defining peasants as ‘a man or woman of the land, who has a direct and special relationship with the land.’³⁷ Under the heading ‘Right to land and territory,’ the Via Campesina Declaration affirms peasants’ right to own land, collectively or individually, for housing and farming; farm their own land and any state land they depend on for their livelihoods; have security of tenure and protection from forcible eviction; reject the acquisition and conversion of land for economic purpose; and benefit from land reform.³⁸

Grounded in the life experiences of peasants around the world, the right to land made its way into United Nations talks, featuring in discussions at the OEIGWG on a United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas. The United Nations Human Rights Council established this working group in 2012 as a result of LVC’s advocacy and on the initiative of sympathetic states.³⁹ The working group drafted the declaration that would ultimately be adopted by the Human Rights Council,⁴⁰ and the General Assembly,⁴¹ enshrining the right to land in an international human rights instrument for the first time.

The right to land in the UNDROP

The land question features prominently in the UNDROP, starting in the preamble, which recognises the special relationship between peasants and land,⁴² and which includes land problems in the list of circumstances that justify the affirmation of peasants' rights – conveying alarm at the growing number of peasants who are forcibly displaced every year;⁴³ stressing that several factors make it difficult for peasants to defend their land rights;⁴⁴ stressing that peasant women are often 'denied tenure and ownership of land';⁴⁵ recognising that access to land 'is an increasing challenge for rural people';⁴⁶ and expressing concern about the growing repression of land rights activists.⁴⁷

Following in the footsteps of the Via Campesina Declaration, the UNDROP affirms the deep connection between people and land in its definition of 'peasants.' As well as listing characteristics related to livelihood systems and labour organisation, the UNDROP identifies peasants as people who have a 'special dependency on and attachment to the land.'⁴⁸ It also extends rights to 'other people working in rural areas,' clarifying that it applies to any person engaged in land-based activities, such as small-scale agriculture, pastoralism, and hunting or gathering. This includes landless people, agricultural workers, and 'indigenous peoples and local communities *working on the land*.'⁴⁹

The UNDROP's substantive provisions place considerable emphasis on the relation between human rights and peasants' land and resource rights. And while all rights are indivisible on the juridical plane and the Declaration explicitly rules out hierarchies of rights,⁵⁰ it seems politically significant that peasants' right to access the natural resources 'that are required to enjoy adequate living conditions'⁵¹ precedes the affirmation of other rights – including the rights to life, physical and mental integrity, and liberty and security of person – in the structure of the Declaration.⁵²

Article 17 affirms that peasants and other people living in rural areas have an individual and a collective right to land.⁵³ This encompasses the right 'to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.'⁵⁴ Other international human rights instruments partly frame land issues in the context of strategies to implement other human rights, such as the right to an adequate standard of living and the right to be free from hunger.⁵⁵ But the UNDROP establishes a more direct connection between people and land and inverts the conventional approach by inscribing the attainment of an adequate standard of living within the framework of an encompassing human right to land – though the Declaration also recognises a separate, free-standing right to an adequate standard of living for peasants and their families.⁵⁶ By affirming the value of collective rights and clarifying that the right to land can be exercised collectively as well as individually, the UNDROP aims to reverse the juridical marginalisation of the collective landholding arrangements that often sustain peasants' production systems.⁵⁷

Article 17 also outlines the practical implications of the right to land. Echoing the language of the VGGT, it calls on states to 'take appropriate measures to

provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law.⁵⁸ It also calls on states to ‘ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed.’⁵⁹ Where violations have occurred, peasants and other people working in rural areas have the right ‘to return to their land . . . whenever possible, or to receive just, fair and lawful compensation.’⁶⁰ A separate provision on peasants’ access to justice calls on states to provide effective redress for violations, including actions that have the ‘aim or effect’ of arbitrarily dispossessing peasants of their land and natural resources.⁶¹

These protective aspects of the right to land are comparable to ‘progressive’ interpretations of the right to property, when applied to protecting peasants’ land rights. They also converge with, and reinforce, the many provisions of the VGGT that call for recognising, respecting and protecting all legitimate tenure rights.⁶² But the UNDROP goes further than the VGGT, affirming an overarching right to land that pertains to peasants by virtue of their distinctive connection to the land. In addition, the Declaration articulates the imperative of protecting peasants’ land rights in direct, tangible terms (referring to ‘land’ rather than ‘property’), without the commodifying baggage that the notion of property inherently entails.⁶³

As the UNDROP applies to agricultural workers and the landless as well as small-scale producers, the right to land provides the normative foundations for agrarian reform, including land redistribution and restitution.⁶⁴ Article 17 calls on states, ‘where appropriate,’ to implement agrarian reforms aimed at facilitating ‘broad and equitable access to land’ and limiting ‘excessive concentration and control of land,’⁶⁵ provided the measures comply with the parameters established in the UNDROP, such as ‘securing due recognition and respect for the rights and freedoms of others.’⁶⁶ Further, the UNDROP calls on states to prioritise landless peasants, young people, and other rural workers when allocating public lands.⁶⁷

Other international human rights instruments refer to agrarian reform in connection with initiatives to promote ‘the most efficient development and utilization of natural resources.’⁶⁸ But the UNDROP explicitly connects agrarian reform to land concentration and justice. Meanwhile, the VGGT provide guidance on redistributive reform but frame it as an option for states to consider on economic, social or environmental grounds, rather than as a human rights issue.⁶⁹ Unlike other international instruments, the UNDROP also calls on states to consider the ‘social function’ of land as a basis for agrarian reform.⁷⁰

In the early 1900s, French jurist Léon Duguit developed the notion of social function to highlight that property serves public as well as private interests, at once legitimising and limiting its legal protection and configuration.⁷¹ Since then, several constitutional clauses – particularly those emerging in the context of major political change – have linked property to social function. Over the years, public authorities in different countries have relied on social function provisions to justify land redistribution, with varying degrees of success.⁷² The UNDROP’s reference to the social function of land taps into this juristic tradition to affirm the inherent

limitations of property, not explicitly found in other international texts,⁷³ and to strengthen the case for agrarian reform.

Recognising social differentiation in land relations and its partial grounding in structural discrimination under national laws, Article 17 also calls on states to 'remove and prohibit' discrimination relating to the right to land. This includes discrimination resulting from a 'change of marital status, lack of legal capacity or lack of access to economic resources.'⁷⁴ Article 3 enshrines a more general prohibition of discrimination and includes property among the prohibited grounds of discrimination.⁷⁵

Other more general provisions of the UNDROP also have a bearing on the right to land. Carefully worded clauses call on states to ensure that peasants and other people working in rural areas have a say in decisions that could affect 'their lives, land and livelihoods,' and to recognise the role of 'strong and independent' organisations that represent peasants and people working in rural areas.⁷⁶ When affirming the right to land, Article 17 explicitly references the general limitations clause in Article 28,⁷⁷ which states that peasants' rights can only be subject to limitations that are determined by law, comply with international human rights obligations, and are necessary to respect the rights of others or for 'meeting the just and most compelling requirements of a democratic society.'⁷⁸

From words to practice

Faced with profound changes that threaten peasants' lands, livelihoods and ways of life, agrarian movements have wielded the language of rights to *affirm* peasants' connection to land as a defining feature of their identity; *defend* this bond in the face of encroachment and dispossession; and *fulfil* it through land redistribution or restitution. Successive drafting efforts have evolved from the aspirational ambitions of grassroots deliberations to the politics of inter-governmental negotiations.⁷⁹ The affirmation of the right to land is the story of social movements shaping human rights from the ground up. And by providing a universal construct that abstracts from the great diversity of land problems and arrangements, the right to land establishes a new channel for translating local struggles into global action. Compared to other international instruments, the UNDROP is more explicit in articulating the protection of land rights in human rights terms, recognising diverse tenure models – including collective forms of landholding – and establishing the normative foundations for agrarian reform inspired by principles of social justice.

As a result, the right to land cuts across recognition, representation and material distribution. In emphasising peasants' 'special attachment' to land, the UNDROP highlights the strong connection between place, history and culture and the fundamental role of land in shaping social identity and a shared sense of belonging.⁸⁰ At the same time, the right to land reflects a concern about control over the means of production. This is part of an overarching 'right to produce' that runs through the Declaration, starting with its definition of peasants as people who engage in agricultural production,⁸¹ through its emphasis on the value of work itself (including

‘people working in rural areas’ in its title) and the place of work as a source of social identity (defining peasants by their reliance on family or household labour⁸²), to its affirmation of peasants’ right to work.⁸³

More than establishing safety nets for secure access to basic goods such as food and housing, the UNDROP affirms the agency of peasants to advance their own vision of rural development, in the face of inequitable relations affecting production and trade. This framing creates strong connections between the right to land and other rights related to the spheres of work and production – because land and labour struggles often intersect,⁸⁴ because farm workers may claim land redistribution or restitution,⁸⁵ and because effective agrarian reform requires not only transferring land but also improving access to credit, inputs and extension services.⁸⁶

There are difficult challenges to realising the right to land. Pressures on peasants’ lands originate from structural transformations that affect global commodity markets, food systems, the organisation of government, and relations between rural and urban worlds. These processes are hard to counter, let alone reverse. Although the public policies that underpin them are potentially reversible, or at least adjustable, international soft-law instruments do not, in themselves, alter entrenched patterns of land ownership or the legal arrangements that protect the landholdings of transnational businesses in the face of demands for consultation, restitution or redistribution.⁸⁷ The majority vote at the United Nations General Assembly, with several higher-income countries voting against the adoption of the UNDROP or abstaining, echoes the challenges that states in the global South have long faced when challenging aspects of economic governance, such as through historical advocacy on the New International Economic Order and the right to development.⁸⁸

The real challenge, then, lies in moving from the right to land to concrete changes in the policies and processes that shape control over land. Legal strategies may have a role to play – for example, by mobilising the right to land to influence the interpretation of binding law, including other human rights, in legal proceedings. International human rights bodies such as the HRC and the IACHR have already started considering the UNDROP in their interpretation of binding human rights treaties.⁸⁹ National courts could follow this lead. The right to land could also inspire novel approaches for reforming national laws and institutions.

But land is eminently political, and vested interests at local to global levels are likely to resist real change. The repression many land rights defenders have suffered for their advocacy in the face of agribusiness and extractive industry projects worldwide is a reminder of the often brutal opposition to land rights claims.⁹⁰ In most cases, addressing complex land questions will require political strategies, with rights approaches helping reframe the issues, catalyse collective action, and shift the prevailing ‘common sense.’⁹¹

How activists will mobilise the right to land, in discursive practices or legal proceedings, and with what results, will determine the bearing the UNDROP will have on land relations in the longer term. In the meantime, there is little doubt that the right to land constitutes an important milestone in efforts to connect land to human rights. Its legal contours show that rights constructs can significantly depart

from the traditional canon, while its affirmation from the ground up highlights the power of agency in shaping human rights.⁹² The struggle for affirming the right to land must now transition to the struggle for implementation.

Notes

- 1 UN General Assembly, 'United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas' (17 December 2018) UN Doc A/RES/73/165. Voting patterns largely reflected dividing lines between global North and South: Australia, Israel, New Zealand, Sweden, the United Kingdom, and the United States were among the eight states that voted against, while Austria, Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, the Republic of Korea, the Russian Federation, Singapore, and Spain were among the 54 states that abstained. See UN General Assembly Official Records, 73rd Sess., 55th plenary meeting at 25' (17 December 2018) UN Doc A/73/PV.55. This chapter builds on ideas presented in Lorenzo Cotula, 'Between Hope and Critique: Human Rights, Social Justice and Re-Imagining International Law from the Bottom Up' (2020) 48(2) *Georgia Journal of International and Comparative Law* 473–521.
- 2 'For the purposes of the present Declaration, a peasant is any person who engages or who seeks to engage, alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land' (UNDROP, art. 1.1).
- 3 Priscilla Claeys, 'The Rise of New Rights for Peasants: From Reliance to NGO Intermediaries to Direct Representation' (2018) 9(3–4) *Transnational Legal Theory* 394–7.
- 4 UN Human Rights Council, 'United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas' (8 October 2018) UN Doc A/HRC/RES/39/12, art. 17.1. On the right to land in the UNDROP, see also Christophe Golay, 'Research Brief: The Right to Land and Other Natural Resources' (2020) *Geneva Academy of International Humanitarian Law and Human Rights*. For reflections preceding the adoption of the declaration, see Melik Özden, *The Right to Land* (Europe-Third World Centre – CETIM 2014); Sofia Monsalve Suárez, *The Right to Land and Other Natural Resources in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas* (FIAN International 2015); Kaitlin Cordes, 'Is there a Human Right to Land?' (8 November 2017) Columbia Centre on Sustainable Investment blog <<https://blogs.ei.columbia.edu/2017/11/08/is-owning-land-a-human-right/>> accessed 28 April 2021; Priscilla Claeys, 'The Right to Land and Territory: New Human Right and Collective Action Frame' in Olivier De Schutter and Balakrishnan Rajagopal (eds), *Property Rights from Below: Commodification of Land and the Counter-Movement* (Routledge 2020) 131–48. For a broader discussion of land and natural resources in international law, see Elisa Morgera and Kati Kulovesi (eds), *International Law and Natural Resources* (Edward Elgar 2016).
- 5 See also Christophe Golay and Ioana Cismas, 'Legal opinion: The Right to Property from a Human Rights Perspective' (2010) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1635359> accessed 25 April 2021.
- 6 For a fuller discussion, see Lorenzo Cotula, 'Between Hope and Critique: Human Rights, Social Justice and Re-Imagining International Law from the Bottom Up' (2020) 48(2) *Georgia Journal of International and Comparative Law* 473–521. See also Thomas M. Antkowiak, 'Rights, Resources, and Rhetoric: Indigenous Peoples and the Inter-American Court' (2013) 35 *University of Pennsylvania Journal of International Law* 113–87; Maximiliano Mendieta Miranda and Julia Cabello Alonso, *Advancing Indigenous Peoples' Rights through Regional Human Rights Systems: The Case of Paraguay* (International

- Institute for Environment and Development 2017); Joel E. Correia, 'Indigenous Rights at a Crossroads: Territorial Struggles, the InterAmerican Court of Human Rights, and Legal Geographies of Liminality' (2018) 97 *Geoforum* 73–83.
- 7 See also Jérémie Gilbert, 'Land Rights as Human Rights: The Case for a Specific Right to Land' (2014) 10(18) *Sur – International Journal on Human Rights* 113–35; Cordes, 'Is there a Human Right to Land?', supra note 4.
 - 8 UN General Assembly, 'Report of the Special Rapporteur on the Right to Food' (11 August 2010) UN Doc A/65/281; Oliver De Schutter, 'The Emerging Human Right to Land' (2010) 12 *International Community Law Review* 303–34. See also Lorenzo Cotula (ed), *The Right to Food and Access to Natural Resources. Using Human Rights Arguments and Mechanisms to Improve Resource Access for the Rural Poor* (FAO 2008).
 - 9 International Labour Organization (ILO), Indigenous and Tribal Peoples Convention (27 June 1989) C169, artt. 13–9; UN General Assembly, 'United Nations Declaration on the Rights of Indigenous Peoples' (2 October 2007) UN Doc A/RES/61/295. See also Megan Davis, 'Indigenous Struggles in Standard-Setting: The United Nations Declaration on the Rights of Indigenous Peoples' (2008) 9(2) *Melbourne Journal of international Law* 439–71; Jesse Hohmann and Marc Weller (eds), *The U.N. Declaration on the Rights of Indigenous Peoples: A Commentary* (Oxford University Press 2018); Jérémie Gilbert and Corinne Lennox, 'Towards New Development Paradigms: The United Nations Declaration on the Rights of Indigenous Peoples as a Tool to Support Self-Determined Development' (2019) 23 *International Journal of Human Rights* 104–24.
 - 10 UNDROP, supra note 4, art. 1.3.
 - 11 Karen Engle, 'On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights' (2011) 22(1) *European Journal of International Law* 141–63.
 - 12 See, for example, Armando Guevara Gil and Carla Cabanillas Linares, 'Mineralizing the Right to Prior Consultation: From Recognition to Disregard of Indigenous and Peasant Rights in Peru' (2020) 20(1) *Global Jurist*.
 - 13 FAO CFS, 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security' (VGGT) (11 May 2012) CL 144/9 Appendix D. See, e.g., paras. 1.1, 2.2.3.2, 4.4, and 5.3.
 - 14 *Ibid.*, ss. 14 and 15.
 - 15 UN Committee on the Elimination of Discrimination against Women, 'General Recommendation No 34 on the Rights of Rural Women' (7 March 2016) CEDAW/C/GC/34, para. 36(a).
 - 16 See, for example, Yudha Fathoni, *Challenging the Constitutionality of Indonesia's Investment Law* (International Institute for Environment and Development 2014).
 - 17 See, for example, Eric T. Hodoya and Jonathan E. Ensorb, 'Brazil's Landless Movement and Rights "from Below"' (2018) 63 *Journal of Rural Studies* 74–82; George Mészáros, *Social Movements, Law and the Politics of Land Reform: Lessons from Brazil* (Routledge 2013).
 - 18 Marc Edelman and Carwil James, 'Peasants' Rights and the UN System: Quixotic Struggle? Or Emancipatory Idea Whose Time Has Come?' (2011) 38(1) *Journal of Peasant Studies* 81–108. See also Priscilla Claeys, 'Food Sovereignty and the Recognition of New Rights for Peasants at the UN: A Critical Overview of La Via Campesina's Rights Claims over the Last 20 Years' (2014) 12(4) *Globalizations* 452–65.
 - 19 For a discussion of some of these trends, see Saturnino M. Borras Jr., 'The Politics of Transnational Agrarian Movements' (2010) 41(5) *Development and Change* 771–803; Peter Rosset, 'Re-thinking Agrarian Reform, Land and Territory in La Via Campesina' (2013) 40(4) *Journal of Peasant Studies* 721–75; Michael Fakhri, *Sugar and the Making of International Trade Law* (Cambridge University Press 2014); Jennifer Clapp, 'The Problem with Growing Corporate Concentration and Power in the Global Food System' (2021) *Nature Food* 1–5. See also Edelman and James, 'Peasants' Rights and the UN System,' supra note 18, at 88–9.

- 20 Ward Anseeuw and Giulia M. Baldinelli, *Uneven Ground: Land Inequality at the Heart of Unequal Societies* (International Land Coalition 2020).
- 21 See, for example, Ward Anseeuw, Mathieu Boche, Thomas Breu, Markus Giger, Jann Lay, Peter Messerli and Kerstin Nolte, *Transnational Land Deals for Agriculture in the Global South: Analytical Report based on the Land Matrix Database* (International Land Coalition 2012); Saturnino M. Borras Jr., Jennifer C. Franco, S. Ryan Isakson, Les Levidow and Pietje Vervest, 'The Rise of Flex Crops and Commodities: Implications for Research' (2016) 43(1) *Journal of Peasant Studies* 93–15; Jampel Dell'Angelo, Paolo D'Odorico, Maria Cristina Rulli and Philippe Marchand, 'The Tragedy of the Grabbed Commons: Coercion and Dispossession in the Global Land Rush' (2017) 92 *World Development* 1–12; Lorenzo Cotula, '“Land Grabbing” and International Investment Law: Toward a Global Reconfiguration of Property?' in Andrea K. Bjorklund (ed), *Yearbook on International Investment Law & Policy 2014–2015* (Oxford University Press 2016) 177–214; Kaitlin Y. Cordes and Anna Bulman, 'Corporate Agricultural Investment and the Right to Food: Addressing Disparate Protections and Promoting Rights-Consistent Outcomes' (2016) 20 *UCLA Journal of International Law and International Affairs* 87–161.
- 22 See, for example, Chaumtoli Huq, 'Charting Global Economic Inequalities and Emancipatory Human Rights Responses from the Ground Up: The Tea Workers' Movement of Bangladesh' (2020) 52(1) *Columbia Human Rights Law Review* 372–440.
- 23 Lorenzo Cotula, '(Dis)integration in Global Resource Governance: Extractivism, Human Rights, and Investment Treaties' (2020) 23(2) *Journal of International Economic Law* 431–54. See also GRAIN, *Asia's Agrarian Reform in Reverse: Laws Taking Land out of Small Farmers' Hands* (GRAIN 2015); Kevin Woods, 'A Political Anatomy of Land Grabs' *Myanmar Times* (3 March 2014) <www.mmtimes.com/national-news/9740-a-political-anatomy-of-land-grabs.html> accessed 9 June 2021.
- 24 UN Human Rights Council, 'Report of the Special Rapporteur on the Rights of Indigenous Peoples' (10 August 2018) UN Doc A/HRC/39/17. See also Global Witness, *Defending Tomorrow: The Climate Crisis and Threats against Land and Environmental Defenders* (Global Witness 2020).
- 25 Kojo S. Amanor, 'Global Resource Grabs, Agribusiness Concentration and the Smallholder: Two West African Case Studies' (2012) 39(3–4) *Journal of Peasant Studies* 731–49.
- 26 Ibid. For an off-cited framework to describe rural differentiation in the context of commercial agriculture, see Andrew Dorward, 'Integrating Contested Aspirations, Processes and Policy: Development as Hanging In, Stepping Up and Stepping Out' (2009) 27(2) *Development Policy Review* 131–46.
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- 37 Ibid., art. 1.
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- 40 Human Rights Council, 'Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development' UN Doc A/HRC/39/L.16 (26 September 2018).
- 41 UN General Assembly, 'United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas,' supra note 1.
- 42 UNDROP, supra note 4, sixth preambular para.
- 43 UNDROP, supra note 4, 11th preambular para.
- 44 UNDROP, supra note 4, 15th preambular para.
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- 46 UNDROP, supra note 4, 16th preambular para.
- 47 UNDROP, supra note 4, 19th preambular para.
- 48 UNDROP, supra note 4, art. 1.1.
- 49 UNDROP, supra note 4, artt. 1.2–1.4, emphasis added.
- 50 UNDROP, supra note 4, fifth preambular para.
- 51 UNDROP, supra note 4, art. 5.
- 52 UNDROP, supra note 4, art. 6.
- 53 UNDROP, supra note 4, art. 17.1.

- 54 Ibid.
- 55 In realising the ‘fundamental right of everyone to be free from hunger,’ for example, states are required to take a range of necessary measures, as relevant, including ‘reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.’ See International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 93 UNTS 171 (ICESCR), art. 11.2.
- 56 UNDROP, supra note 4, art. 16.
- 57 For example, the UNDROP, supra note 4, artt. 17.1, 17.3, and 17.5
- 58 UNDROP, supra note 4, art. 17.3. See also FAO CFS VGGT, supra note 13, paras. 4.4, 5.3, and 7.1.
- 59 UNDROP, supra note 4, art. 17.3. See also art. 17.4, which reads: ‘Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war.’
- 60 UNDROP, supra note 4, art. 17.5.
- 61 UNDROP, supra note 4, art. 12.5.
- 62 See, for example, FAO CFS VGGT, supra note 13, paras. 3.1, 3.2, 4.4, 4.5, 5.3, 7.1, 8.2, 8.7, 9.4, 9.5, 11.6, 12.4, 12.6, 12.10, 12.15, 14.1, and 16.1.
- 63 For a fuller discussion, see Cotula, ‘Between Hope and Critique,’ supra note 6.
- 64 UNDROP, supra note 4, artt. 1.3 and 1.4. On the interface between human rights and redistributive action, see, for example, Julia Dehm, Ben Golder and Jessica Whyte, ‘Introduction: ‘Redistributive Human Rights?’ Symposium’ (2020) 8(2) *London Review of International Law* 225–32.
- 65 UNDROP, supra note 4, art. 17.6.
- 66 UNDROP, supra note 4, art. 28.
- 67 UNDROP, supra note 4, art. 17.6.
- 68 ICESCR, supra note 55, art. 11.2.
- 69 FAO CFS VGGT, supra note 13, para. 15.
- 70 UNDROP, supra note 4, art. 17.6.
- 71 Léon Duguit, *Les Transformations Générales du Droit Privé depuis le Code Napoléon* (2nd edn, Félix Alcan 1920).
- 72 For a fuller discussion, see Lorenzo Cotula, *Tenure Rights and Obligations: Towards a More Holistic Approach to Land Governance* (Food and Agriculture Organization of the United Nations, 2021).
- 73 Such as article 17 of the Universal Declaration of Human Rights (UDHR), which states that ‘[e]veryone has the right to own property alone as well as in association with others’ and that ‘[n]o one shall be arbitrarily deprived of his property.’
- 74 UNDROP, supra note 4, art. 17.2; art. 1.2 clarifies that the UNDROP applies to peasants’ ‘dependent family members.’
- 75 UNDROP, supra note 4, artt. 3.1 and 3.3.
- 76 UNDROP, supra note 4, artt. 2.3 and 10.
- 77 UNDROP, supra note 4, art. 17.1 says ‘Peasants and other people living in rural areas have the right to land, individually and/or collectively, in accordance with article 28 of the present Declaration.’
- 78 UNDROP, supra note 4, art. 28.2.
- 79 For example, while the La Via Campesina Declaration refers to the ‘right to land and territory,’ the UNDROP makes no explicit mention of territory, partly due to political sensitivities – though it does affirm the collective dimensions of the right to land.

- 80 See also Sérgio Sauer, 'Land and Territory: Meanings of Land between Modernity and Tradition' (2012) 1(1) *Agrarian South: Journal of Political Economy* 85–107.
- 81 UNDROP, supra note 4, art. 1.1.
- 82 UNDROP, supra note 4, artt. 1.1 and 1.2.
- 83 UNDROP, supra note 4, art. 13.
- 84 See, for example, Huq, 'Charting Global Economic Inequalities,' supra note 22, discussing the land struggles of tea plantation workers in Bangladesh. In her article, Huq reports that, based on arrangements dating back to colonial times, farm workers in the relevant site sublease small plots from plantation management to grow food crops and complement their meagre wages. The article retraces how farm workers mobilised against the compulsory acquisition of their plots for the creation of a special economic zone.
- 85 See, for example, Maya Hernández, 'Interview: Despite Escalating Assassinations, Colombian Farmworker Union Fights for the Right to Land' (2021) *Labour Notes* <www.labornotes.org/2021/01/interview-despite-escalating-assassinations-colombian-farmworker-union-fights-right-land> accessed 25 April 2021, containing an interview with Elsa Nury Martínez Silva, a farmworker activist and the president of the National Federation of Agricultural Unions (FENSUAGRO).
- 86 Rosset, 'Re-thinking Agrarian Reform,' supra note 19, at 727.
- 87 For a fuller discussion, see Cotula, '(Dis)integration in Global Resource Governance,' supra note 23.
- 88 Julia Dehm, 'Highlighting Inequalities in the Histories of Human Rights: Contestations Over Justice, Needs and Rights in the 1970s' (2018) 31(4) *Leiden Journal of International Law* 871–95.
- 89 Human Rights Committee, *Views Adopted by the Committee under Article 5(4) of the Optional Protocol, Concerning Communication No. 2751/2016* ('Portillo Cáceres and Others v. Paraguay'; 20 September 2019), CCPR/C/126/D/2751/2016. The complaint was filed by a group of peasants in connection with the impacts of agrochemical fumigations from large-scale soybean plantations on public health, waterways, crops and farm animals, and daily lives. The Committee found violations of the rights to life with dignity and to privacy, family life, and home (para. 8). In discussing the concept of 'home,' the Committee noted the petitioners' 'special attachment to and dependency on the land,' referencing the UNDROP (para. 7.8). The Inter-American Court of Human Rights cited the UNDROP in *Asociación Lhaka Honhat (Nuestra Tierra) v. Argentina* (Judgment 6 February 2020). The case concerns a long-running dispute over the recognition of the communal land rights of communities belonging to several Indigenous Peoples. The Court held that it could use the UNDROP when interpreting Argentina's obligations based on binding treaties (para. 136). For a discussion of these cases, see Golay, 'Research Brief: The Right to Land and Other Natural Resources,' supra note 3, at 4–5; Christophe Golay, *The Right to Land and the UNDROP: How Can We Use the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas to Protect the Right to Land?* (Geneva Academy of International Humanitarian Law and Human Rights 2021) 52–3; Stéphanie de Moerloose and C. Ignacio de Casas, 'The Lhaka Honhat Case of The Inter-American Court of Human Rights: The Long-Awaited Granting of 400,000 Hectares under Communal Property Rights' (2020) *EJIL: Talk!*, <www.ejiltalk.org/the-lhaka-honhat-case-of-the-inter-american-court-of-human-rights-the-long-awaited-granting-of-400000-hectares-under-communal-property-rights/> accessed 28 April 2021.
- 90 See UN Human Rights Council, 'Report of the Special Rapporteur on the Rights of Indigenous Peoples,' supra note 23; Global Witness, *Defending Tomorrow*, supra note 23.
- 91 Alan Hunt, 'Rights and Social Movements: Counter-Hegemonic Strategies' (1990) 17(3), *Journal of Law and Society* 309–28; César Rodríguez-Garavito, 'Beyond Enforcement: Assessing and Enhancing Judicial Impact,' in Malcolm Langford, César Rodríguez-Garavito and Julieta Rossi (eds), *Social Rights Judgments and the Politics of Compliance: Making it Stick* (Cambridge University Press 2017) 75–108.
- 92 See also Sofia Monsalve Suárez, 'The Human Rights Framework in Contemporary Agrarian Struggles' (2013) 40(1) *Journal of Peasant Studies* 241–2.

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