

## FIAN INTERNATIONAL BRIEFING

DECEMBER 2015

By Sofía Monsalve Suárez<sup>1</sup>



## 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

This briefing note on the right to food is part of a series of briefings published by FIAN International to feed into the negotiations on the draft declaration of the United Nations on the rights of peasants and other people working in rural areas.

This first series of briefings covers the following topics: rights to sovereignty over natural resources, development and food sovereignty, the right to food and the right to land and other natural resources.

All of these briefings are available on our website: <http://www.fian.org/>



<sup>1</sup> Sofía Monsalve Suárez is the Coordinator of the Access to Natural Resources Programme at FIAN International. The author would like to thank Smita Narula, Denise González Núñez and María Silvia Emanuelli for their guidance and suggestions to this paper.

# 1. WHAT IS THE RIGHT TO LAND AND TO OTHER NATURAL RESOURCES?



The new advanced version of the draft UN declaration defines the right to land and to other natural resources of peasants and other people working in rural areas as the right to the lands, water bodies, coastal seas, fisheries, pastures and forests which peasants and other people working in rural areas need in order to make from them an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.<sup>1</sup>

This definition contains several elements which need to be highlighted:

The right to land and natural resources is as much a **collective right** as an **individual right**. Indeed, in many parts of the world, land and natural resources are commons whose use, access and management are socially defined and organized in a collective way. Thus, the collective dimension is crucial in order to effectively secure the individual enjoyment of this right.

The right to land and natural resources must be understood in a **holistic way**. Natural resources and their uses are interconnected. In some contexts such as the Latin American one, this holistic relationship between people and their bio-ecological environment is expressed through the concept of "territory".

Similarly, land and natural resources fulfil **multiple functions** which are closely related to the realization of multiple human rights. Rural people need land and natural resources in order to make from them an adequate standard of living, to have a place to live in security, peace and dignity, to attain the highest standard of health and to develop their cultures including their spiritual relationship with nature.

The right to land and natural resources contains both **freedoms and entitlements**. The freedoms include the right to maintain existing access to, use and management of land and natural resources necessary for the realization of the rights to an adequate standard of living, to health and to participate in cultural life. The freedoms also include the right to be free from interference, such as the right to be free from forced evictions or from contamination and destruction of water bodies and fisheries.

The entitlements include: i) the right to tenure, use and management systems which ensure non-discriminatory, equitable and sustainable access to, and use and management of land and natural resources for all rural people; ii) the right to restitution and return to the lands and natural resources of which rural people were arbitrarily or unlawfully deprived; and iii) the right to redistribution of land and natural resources in order to facilitate broad and equitable access, including equal access of men and women; iv) the right to preferential access (i.e., small-scale fishers have preferential access to fish in waters under national jurisdiction); and the right to be given priority to landless peasants and other rural workers in the allocation of public lands, fisheries and forests.

<sup>1</sup> Article 19 of the new advanced version of the draft UN declaration prepared by the Chair of the Open-Ended Intergovernmental Working Group of the Human Rights Council.

## 2. WHAT ARE STATES' OBLIGATIONS UNDER THIS RIGHT?

Under the Declaration, States have an immediate obligation to ensure that the right to land and natural resources is exercised without discrimination. Therefore, States have to remove and prohibit all forms of discrimination related to the tenure, use and management systems of land and natural resources. States must also give special attention to groups which have been traditionally discriminated such as women, Dalits, nomadic pastoralists, landless peasants and workers, people using and managing natural resources in customary systems, and to marginalized groups within rural communities, among others. States must also refrain from taking measures that would cause the enjoyment of the right to land and natural resources to regress.

States have the **obligation to respect** the right to land and natural resources. They must refrain from interfering directly or indirectly with the enjoyment of this right. This obligation includes, inter alia, recognizing and respecting customary rights and the natural commons; and refraining from forced evictions or any practice or activity that destroys or arbitrarily impairs existing access to, use and management of land and natural resources.

States have the **obligation to protect** the right to land and natural resources. They must prevent third parties from interfering in any way with the enjoyment of this right. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation to protect includes, inter alia, adopting the necessary and effective legislative and other measures to regulate third parties and to restrain and sanction, for example, third parties promoting or participating in forced evictions, dispossessing women of their rights, encroaching on customary rights, or polluting and destroying natural resources. States must also ensure that the rules and mechanisms governing access to natural resources do not operate in discriminatory ways or lead to concentrating control of natural resources in few hands.

States have the **obligation to fulfil** the right to land and natural resources. They have to provide access to land and natural resources by implementing, inter alia, an agrarian and/or aquatic reform when individuals and communities live in poverty due to a lack or an insufficient access to land and natural resources; or by prioritizing the allocation of public lands, water bodies, fisheries and forests to marginalized groups; or by restituting lands and natural resources to marginalized people whose lands and natural resources were unlawfully taken from them. States have to facilitate the sustainable use of natural resources by, inter alia, adopting policies and measures for strengthening the natural resources based livelihoods of people and the long-term conservation of land and other natural resources including through agro-ecology. States have the obligation to ensure the conditions for re-generation of biological and other natural capacities and cycles.



### 3. WHAT ARE THE SOURCES SUPPORTING THE RECOGNITION OF THIS RIGHT?

Article 19 on the right to land and natural resources of the new advanced version of the draft UN declaration builds to a large extent on the interpretative developments and the concluding observations on States' reporting issued by the UN Committee on Economic, Social and Cultural Rights (CESCR)<sup>2</sup> and the Special Procedures of the Human Rights Council.<sup>3</sup> The language of Article 19 strongly borrows from the right to land and territory of indigenous peoples as recognized in international human rights law<sup>4</sup> and from already agreed language contained in guidelines which have been adopted in intergovernmental negotiations under the auspices of the FAO<sup>5</sup> and the UN Committee on World Food Security<sup>6</sup>.

The definition of this right as drafted in Article 19 borrows from Article 26.1 of the UN Declaration on the Rights of Indigenous Peoples<sup>7</sup> and from CESCR's General Comments N° 4<sup>8</sup> on the right to adequate housing, N° 12<sup>9</sup> on the right to adequate food and N° 21<sup>10</sup> on the right of everyone to take part in cultural life.

- 2 General Comment 4 on the right to adequate housing; para. 8 (a) on the legal security of tenure & (e) on accessibility, General Comment 7 on forced evictions; para.2 on the obligation to be protected against unfair evictions, para.9 on the security of tenure to occupiers of house and land & para.16 on adequate alternative housing, resettlement or access to productive land, General Comment 12 on the right to adequate food: para.12 on availability, para.13 on accessibility & para. 26 on the need to prevent discrimination in access to food or resources for food, General Comment 15 on the right to water; para. 16 (c) establishing that 'no household should be denied the right to water on the grounds of their housing or land status.' & General Comment 21 on the right to take part in cultural life: para.15 (b) on access to know and understand his or her own culture and that of others, in order to inter alia, 'follow a way of life associated with the use of cultural goods and resources such as land...'; para.36 on the right of indigenous peoples to lands, territories and resources traditionally owned occupied, used or acquired & para.50 (c) on the obligation to respect and protect from illegal or unjust exploitation of lands, territories and resources. Moreover, CESCR has issued concluding observations with relation to land to approximately 50 countries since 2001. See Human Rights Index of the Office of the High Commissioner for Human Rights. <http://uhri.ohchr.org/en>
- 3 Report of the Special Rapporteur on the realization of economic, social and cultural rights, Danilo Türk. UN Document E/CN.4/Sub.2/1990/19. Report of the Special Rapporteur on the right to adequate housing, Miloon Kothari, UN Document E/CN.4/2005/48. Report of the Special Rapporteur on the right to adequate food, Jean Ziegler. UN Document A/57/356. Report of the Special Rapporteur on the right to adequate food, Olivier de Schutter, UN Document A/65/281. Basic Principles and Guidelines on Development-Based Evictions and Displacement, UN Document A/HRC/4/18. Housing and property restitution in the context of the return of refugees and internally displaced persons. Final report of the Special Rapporteur, Paulo Sérgio Pinheiro. Principles on housing and property restitution for refugees and displaced persons. UN Document E/CN.4/Sub.2/2005/17.
- 4 Article 13-16 of the ILO Convention 169, Indigenous and Tribal Peoples Convention. Articles 10, 25-30, 32 of the UN Declaration on the Rights of Indigenous Peoples.
- 5 Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, 2004. Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication. FAO's Committee on Fisheries, 2014.
- 6 Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security, 2012
- 7 "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired."
- 8 Paragraph 7: "In the Committee's view, 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 or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."
- 9 Paragraph 12: "Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources" [...].
- 10 Paragraph 13: "The Committee considers that culture [...] encompasses, inter alia, ways of life, language, oral and written literature, music and song, non-verbal communication, religion or belief systems, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts, customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives. Culture shapes and mirrors the values of well-being and the economic, social and political life of individuals, groups of individuals and communities."

Paragraph 19.3 of the new advanced version—which concerns security of tenure, the recognition of customary tenure and other tenure rights not currently protected by law, the protection against forced evictions and the recognition and protection of the natural commons and their related systems of collective use and management—borrows language from paragraphs 4.4, 5.3 and 8.3 of the Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security.<sup>11</sup>

Paragraphs 19.4 and 19.5 on the protection of the right to land in cases of war and conflict, as well as on restitution and return are largely based on the Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) and the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).<sup>12</sup>

Paragraph 19.6 on redistributive reforms for social, economic and environmental reasons draws on guideline 5.7 of the FAO Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication; and on guidelines 15.1, 15.3 and 8.7 of the Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of



- 11 Paragraph 4.4: "Based on an examination of tenure rights in line with national law, States should provide legal recognition for legitimate tenure rights not currently protected by law. [...]"; Paragraph 5.3: "States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect, in accordance with national laws, legitimate tenure rights including legitimate customary tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. Frameworks should reflect the social, cultural, economic and environmental significance of land, fisheries and forests. States should provide frameworks that are non-discriminatory and promote social equity and gender equality. Frameworks should reflect the interconnected relationships between land, fisheries and forests and their uses, and establish an integrated approach to their administration." Paragraph 8.3: "Noting that there are publicly-owned land, fisheries and forests that are collectively used and managed (in some national contexts referred to as commons), States should, where applicable, recognize and protect such publicly-owned land, fisheries and forests and their related systems of collective use and management, including in processes of allocation by the State."
- 12 Principle 2.1: "All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal." Principle 5.1: "Everyone has the right to be protected against being arbitrarily displaced from his or her home, land or place of habitual residence." Principle 5.2: "States should incorporate protections against displacement into domestic legislation, consistent with international human rights and humanitarian law and related standards, and should extend these protections to everyone within their legal jurisdiction or effective control." Principle 5.3: "States shall prohibit forced eviction, demolition of houses and destruction of agricultural areas and the arbitrary confiscation or expropriation of land as a punitive measure or as a means or method of war."

national food security.<sup>13</sup>

The new advanced version does not refer to the social function of land and property which exists in several countries. Even though redistributive reforms for social, economic and environmental reasons are listed as part of State's obligations under Article 19, there is no explicit mention of agrarian reform as has been elaborated by the Special Rapporteurs on the Right to Food<sup>14</sup> and as included in the Peasants' Charter<sup>15</sup> and the final declaration of the International Conference on Agrarian Reform and Rural Development.



13 Guideline 5.7 of the Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication: "Taking due account of Art. 6.18 of the Code, States should where appropriate grant preferential access of small-scale fisheries to fish in waters under national jurisdiction, with a view to achieving equitable outcomes for different groups of people, in particular vulnerable groups. Where appropriate, specific measures, inter alia, the creation and enforcement of exclusive zones for small-scale fisheries, should be considered. Small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties." Guideline 5.8: "States should adopt measures to facilitate equitable access to fishery resources for small-scale fishing communities, including, as appropriate, redistributive reform, taking into account the provisions of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security."

Guideline 15.1 of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests: "Redistributive reforms can facilitate broad and equitable access to land and inclusive rural development. In this regard, where appropriate under national contexts, States may consider allocation of public land, voluntary and market based mechanisms as well as expropriation of private land, fisheries or forests for a public purpose." Guideline 15.3: "In the national context and in accordance with national law and legislation, redistributive reforms may be considered for social, economic and environmental reasons, among others, where a high degree of ownership concentration is combined with a significant level of rural poverty attributable to lack of access to land, fisheries and forests respecting, in line with the provisions of Section 15, the rights of all legitimate tenure holders. Redistributive reforms should guarantee equal access of men and women to land, fisheries and forests." Guideline 8.7: "[...] Policies for allocation of tenure rights should be consistent with broader social, economic and environmental objectives. Local communities that have traditionally used the land, fisheries and forests should receive due consideration in the reallocation of tenure rights. Policies should take into account the tenure rights of others and anyone who could be affected should be included in the consultation, participation and decision-making processes. Such policies should ensure that the allocation of tenure rights does not threaten the livelihoods of people by depriving them of their legitimate access to these resources."

14 Report of the UN Special Rapporteur on the right to food, Mr. Jean Ziegler, UN Document E/CN.4/2001/53, para. 40 (a). Report of the UN Special Rapporteur on the right to food, Mr. Jean Ziegler, UN Document E/CN.4/2006/44, para. 24. Report of the UN Special Rapporteur on the right to food, Mr. Olivier De Schutter, UN Document A/HRC/9/23, para. 22.

15 The Peasants' Charter. The Declaration of Principles and Programme of Action of the World Conference on Agrarian Reform and Rural Development. FAO Rome 1981.

## 4. WHY IS IT IMPORTANT TO RECOGNIZE THIS RIGHT IN THE DECLARATION?

### **Because of the alarming de facto situation:**

The way land and natural resources are distributed, used, controlled and managed is increasingly becoming an issue of great concern in both developing and industrialized countries. Human rights issues as well as issues related to food and energy security, climate change, environmental sustainability and rapid urbanization are at the core of this growing concern. According to a report of the High Commissioner for Human Rights, "between 280 million and 300 million people worldwide have been affected by development-related displacement over the past 20 years; in other words, every year 15 million people are forced to leave their homes and land to make way for large development and business projects, such as the construction of hydroelectric dams, mines and oil and gas installations, or luxury resorts for tourism."<sup>16</sup> The High Commissioner also estimates that at the end of 2012 45.2 million people were forcibly displaced due to armed conflict and natural disasters.<sup>17</sup>

For rural people the **risk of dispossession and displacement** from the lands and natural resources upon which they depend for their subsistence and livelihood is growing: international investments flowing into the energy sector, infrastructure, agribusiness, nature conservation and carbon sequestration projects, urbanization and industrialization are seeking to control ever bigger shares of land, water, fisheries and forests. Global data shows that increasing land concentration is a source of great concern.<sup>18</sup>

Moreover, **human rights defenders working on land**, natural resources and environmental issues are often harassed, persecuted, arbitrarily imprisoned and even killed for defending the right to land and natural resources of their communities. According to the Special Rapporteur on the Situation of Human Rights Defenders, they are the second most vulnerable group of human rights' defenders.<sup>19</sup>

16 High Commissioner for Human Rights, ECOSOC Substantive session of 2014 New York, 23 June-18 July 2014, Item 17 (g) of the provisional agenda Social and human rights questions: human rights [http://www.un.org/ga/search/view\\_doc.asp?symbol=E%2F2014%2F86](http://www.un.org/ga/search/view_doc.asp?symbol=E%2F2014%2F86). Paragraph 5.

17 Ibidem. Paragraph 7.

18 For example, in the EU 27 69% of all farms work less than 5 ha of agricultural land. In 2010, the top 3% of farms controlled half of the total UAA in the EU-27, while 80% of farms, all below 10 ha, controlled only 12% of the total UAA (EU 2012). According to the EUROSTAT (2011)...large farms make up only 0.6% of all European Farms yet they control one-fifth of the total UAA in Europe." See, European Parliament (EP) study Extent of farmland grabbing in the EU (IP/B/AGRI/IC/2014-069) & European Economic and Social Committee, NAT/632 Land grabbing- a warning for Europe and a threat to family farming, 21 January 2015, par.3.3. GRAIN has also issued a report on the global distribution of agricultural land per-region (Africa, Asia-Pacific, Latin America & the Caribbean, North America and Europe) based on national census data. See, GRAIN Hungry for land: Small farmers feed the world with less than a quarter of all farmland May 2014. Also see, HLPE, Land tenure and international investments in agriculture a report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome 2011.

19 See Report of the UN Special Representative on Human Rights Defenders, Ms Hina Jilani. UN Document A/HRC/4/37, para 38-47 and the report of the former Special Rapporteur on the Situation of Human Rights Defenders, Ms Margaret Sekaggya, UN Document A/HRC/19/55.

Specifically recognizing and implementing the right to land and natural resources for peasants and rural communities supports the realization of human rights and supports the achievement of development and poverty eradication goals. It also promotes security and stability.

### ***Because of the existence of a normative gap in international human rights law***

To date, international human rights law guarantees limited land rights. States cannot arbitrarily deprive people of their property, nor can they evict settled communities that rely on a piece of land but lack legal title to it, without meeting certain conditions.<sup>20</sup> The right to property, however, applies to land owners thus leaving landless people and those without formalized land rights without protection. And the bar against evictions can easily be circumvented as States have broad discretion to determine whether the conditions justifying evictions have been met. Ultimately, these protections are largely procedural in nature and do not offer substantive guarantees.<sup>21</sup>

Land as a substantive human right has largely been developed with regard to the rights of indigenous peoples who are guaranteed the right to land and territories which they have traditionally occupied. There exists, therefore, a normative gap in international human rights law that leaves vulnerable non-indigenous rural communities who lack substantive guarantees but for whom access to land is central to their identity and essential to their survival.

Although non-indigenous communities cannot directly claim the right to land, they can seek recourse through a multitude of other human rights such as the rights to food, housing, health and an adequate standard of living.<sup>22</sup>

The protection provided by these corollary rights, however, is also limited. The legal interpretation of the right to food, for example, leaves open whether people feed themselves through direct cultivation of lands or through an income and food distribution system. This flexible interpretation has been misused to justify removing people from their lands – particularly when they do not have formalized land rights – with the reasoning that they are not using land ‘sufficiently/efficiently/sustainably’ and that their right to food would be ‘better realized’ through income gained from promised jobs—which rarely materialize— or through corporate social responsibility/safety net schemes which are simply charity.

A similar problem exists with regard to the right to housing. This right goes beyond the mere buildings which shelter people. It is a right to live in a place in peace, security

and dignity. This implies that the right to housing also covers the lands and natural resources upon which people’s livelihoods depend.<sup>23</sup> Nevertheless, rural communities are vulnerable to losing their communal lands, forests, fisheries or their grazing and seasonally used lands particularly when they do not have formalized but customary or informal rights over them. In processes of resettlement they are usually not compensated for the loss of these resources.<sup>24</sup>

In sum, non-indigenous rural communities who depend on land for their survival are in a vulnerable position, legally and otherwise. Narula therefore notes that “international human rights law must evolve from an instrumentalist approach toward the development of a substantive right to land for those whose very survival depends on it. [...] if access to land continues to be given primarily instrumental consideration—as an asset that serves as a gateway to the realization of other rights—then states can continue to undermine land access by claiming that there are other means to satisfy these corollary rights.”<sup>25</sup>

There is, in the end, an urgent need to recognize the right to land of peasants, nomadic pastoralists, fishing communities and other people working in rural areas in order to protect in particular their communal and traditionally used lands and connected natural resources.

### ***Because land and natural resources have an inalienable character for peasants and other people living in rural areas***

Human rights are generally defined as inalienable rights, or as the rights without humans would lose their character as humans.

The identity of peasants, fishers, pastoralists, indigenous peoples, rural workers and the social fabric of their communities are deeply intertwined with the land, the sea, the rivers, the forests where they live. When a woman peasant loses her land, she loses her identity as peasant woman; when a fisher community loses its land-sea access, they lose their identity as fishers. The fact that without land and other natural resources rural people would lose their specific identity as pastoralists, peasants, and indigenous peoples means that land and other natural resources are inalienable to the rights-holders of this declaration. The recognition of land as a human right in international human rights law follows from this characteristic.



20 General Comment No.7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), UN Doc. E/1998/22.

21 Narula, Smita, *The Global Land Rush: Markets, Rights, and the Politics of Food* (2013). *Stanford Journal of International Law*, Vol. 49, No. 1, p. 101, 2013; NYU School of Law, Public Law Research Paper No. 13-42. Available at SSRN: <http://ssrn.com/abstract=2294521> P.170-171. U.N. treaty bodies and special procedure mandate holders have stressed that secure and stable access to land is essential to the realization of numerous human rights, including the right to food, water, adequate housing, health, and the right to an adequate standard of living.

22 U.N. treaty bodies and special procedure mandate holders have stressed that secure and stable access to land is essential to the realization of numerous human rights, including the right to food, water, adequate housing, health, and the right to an adequate standard of living.

23 General Comment No.7, Forced evictions, and The Right to Adequate Housing (Sixteenth session, 1997), UN Doc. E/1998/22, Para. 10. General Comment No.4, The Right to Adequate Housing (Sixteenth session, 1991), UN Doc. E/1992/23, Para. 8 (a) & (e).

24 Rolf Künemmann and Sofía Monsalve Suárez (2013): *International Human Rights and Governing Land Grabbing: A View from Global Civil Society*, *Globalizations*, 10:1, P. 130.

25 Narula, Smita, *The Global Land Rush*, P.170-171

***Because the right to land and natural resources is indispensable to ensure the human dignity of peasants, women and men, and other people working in rural areas***

Land and natural resources are indispensable for the human dignity of peasants, small-scale fishers, pastoralists and indigenous peoples. When they do not have access to and control over these resources, they are vulnerable to oppression, discrimination and exploitation putting thus at risk their human dignity.<sup>26</sup> In cases of dispossession and displacement, providing food aid and alternative shelter is not enough to protect the human dignity of those affected. Land and the relationship with nature itself are therefore deeply intertwined with the human dignity of those living in rural areas.

***United Nations draft declaration on the rights of peasants and other people working in rural areas (advanced version of 27/01/2015)27 – Extract***

**Article 19 – Right to land and other natural resources**

- 1. Peasants and other people living in rural areas have the right, individually or collectively, to the lands, water bodies, coastal seas, fisheries, pastures and forests which they need in order to make from them an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.
- 2. States shall remove and prohibit all forms of discrimination related to land tenure rights, including those resulting from change of marital status, lack of legal capacity, and lack of access to economic resources. In particular, States shall ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights.
- 3. States shall provide legal recognition for land tenure rights, including customary land tenure rights, not currently protected by law. All forms of tenure, including tenancy, must provide all persons with a degree of tenure security which guarantees legal protection against forced evictions. States shall recognize and protect the natural commons and their related systems of collective use and management.
- 4. Peasants and other people working in rural areas have the right to be protected against being arbitrarily displaced from their lands and other natural resources or place of habitual residence. States shall incorporate protections against displacement into domestic legislation, consistent with international human rights and humanitarian law standards. States shall prohibit forced



eviction, demolition of houses, destruction of agricultural areas and the arbitrary confiscation or expropriation of land and other natural resources as a punitive measure or as a means or method of war.

- 5. Peasants and other people working in rural areas have the right to return to the land and have restored access to natural resources of which they were arbitrarily or unlawfully deprived, or to receive just and fair compensation when their return is not possible. States shall restore access to land and other natural resources to those that have been displaced by natural disasters and/or armed conflict.
- 6. States shall grant preferential access of small-scale fishers to fish in waters under national jurisdiction. States shall carry out redistributive reforms for social, economic and environmental reasons in order to facilitate broad and equitable access to land and other natural resources, particularly to the youth, and inclusive rural development. Redistributive reforms must guarantee equal access of men and women to land, fisheries and forests. Landless peasants and other rural workers should be given priority in the allocation of public lands, fisheries and forests.
- 7. States shall adopt measures for the long-term conservation and sustainable use of land and other natural resources including through agro-ecology; and ensure the conditions for re-generation of biological and other natural capacities and cycles.

<sup>26</sup> The inherent dignity of all members of the human family is recognized in the Preamble and Article 1 of the 1948 Universal Declaration of Human Rights. Article 22 adds that every person is entitled to the realization of economic, social and cultural rights indispensable for his dignity.

<sup>27</sup> Available on the website: <http://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/2ndSession.aspx>



**CONTACT :**

**FIAN Belgium**

Rue Van Elewyck, 35  
1050 Bruxelles - Belgium  
+32 (0)2 640 84 17  
fian@fian.be - www.fian.be

**FIAN International Secretariat**

Willy-Brandt-Platz 5  
69115 Heidelberg - Germany  
+ 49 6221 65300-30  
www.fian.org