

## RESEARCH BRIEF

# THE ROLE OF HUMAN RIGHTS MECHANISMS IN MONITORING THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PEASANTS

## KEY MESSAGES

- The implementation of the United Nations (UN) Declaration on the rights of peasants and other people working in rural areas (UNDROP), adopted by the UN General Assembly in 2018, represents a unique opportunity to push states and international and regional organizations to better protect peasants and other people working in rural areas. These groups of right holders have too often been marginalised within international, regional and national laws and policies, and are the first victims of extreme poverty and hunger.
- On 17 December 2019, nine UN special procedures and four members of UN treaty bodies released a joint statement in which they committed to integrate the implementation of the UNDROP in the exercise of their mandates, protect the rights of peasants and other people working in rural areas, and provide guidance to states on how they can implement the UNDROP. In the coming years, all UN human rights mechanisms, in particular the Human Rights Council, special procedures and treaty bodies, should include the monitoring of the implementation of the UNDROP in their work.
- Accountability for violations of the rights enshrined in the UNDROP should be increased by the establishment of new human rights monitoring mechanisms, or the reinforcement of existing ones at national, regional and international levels. The Human Rights Council should create a new special procedure on the rights of peasants and other people working in rural areas, and specific mechanisms should be established to monitor the UNDROP at regional and national levels.
- In monitoring the UNDROP, human rights mechanisms should pay particular attention to the rights and special needs of those who have historically been discriminated against, including older persons, youth, children and persons with disabilities, and women, who play a key role in local and global food security, but with girls are the first victims of discrimination and represent 70 percent of the world's hungry.
- Human rights mechanisms should protect the right of peasants and other people working in rural areas to participation in all decision-making processes that may affect their lives, lands, resources and livelihoods, enshrined in the UNDROP. These mechanisms should also make sure that peasants or their representatives can fully participate in the human rights systems, as there will be no effective monitoring of the UNDROP without the full participation of peasants and other people working in rural areas in the work of human rights monitoring mechanisms.

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## INTRODUCTION

The United Nations (UN) General Assembly adopted the UN Declaration on the rights of peasants and other people working in rural areas (UNDROP) on 17 December 2018. One year later, on 17 December 2019, nine UN special procedures and four members of UN treaty bodies released a statement in which they committed to integrate the implementation of the UNDROP in the exercise of their mandates, protect the rights of peasants and other people working in rural areas, and provide guidance to states on how they can implement the UNDROP.

This publication aims to support that commitment. It focuses on the role of UN, but also regional and national human rights mechanisms in monitoring the implementation of the UNDROP. The first part of this Research Brief examines lessons learned from their role in monitoring the implementation of the UN Declaration on the rights of indigenous peoples (UNDRIP).

## LESSONS LEARNED FROM THE ROLE OF HUMAN RIGHTS MECHANISMS IN MONITORING INDIGENOUS PEOPLES' RIGHTS

The UN General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. The UN system established two human rights mechanisms with a specific mandate to support the negotiation and implementation of the UNDRIP: the UN Special Rapporteur on the rights of indigenous peoples, an independent expert whose mandate was established in 2001 by the UN Human Rights Commission; and the Expert Mechanism on the rights of indigenous peoples, created in 2007 by the UN Human Rights Council and composed of seven independent experts.

In the last two decades, these two UN mechanisms have raised awareness about the UNDRIP, and they have called for states and international and regional organizations to take concrete steps towards its implementation. They have also pushed regional and national courts to protect indigenous peoples' rights.

Other UN human rights mechanisms, which do not have a specific mandate to protect the rights of indigenous peoples and monitor the UNDRIP, have also included references to indigenous peoples' rights and the UNDRIP in their work. The Human Rights Council has incorporated references to the UNDRIP in its resolutions, in the mandates

that it gave to its subsidiary bodies and special procedures, and in the reports that it requested from the UN Secretary-General and the Office of the UN High Commissioner for Human Rights (OHCHR).

UN special procedures have included references to, or the monitoring of indigenous peoples' rights and the UNDRIP in their thematic reports, country visits, and communications with states and other stakeholders. Treaty bodies have done the same in their examination of state parties' periodic reports and in their concluding observations, as well as in their general comments / recommendations in which they have defined the rights and states obligations in their respective treaties. They have also included the protection of indigenous peoples' rights and the monitoring of the UNDRIP in their examination of communications.

At regional level, the Inter-American Commission on Human Rights, the Inter-American Court on Human Rights, and the African Commission on Human and Peoples' Rights have played a key role in protecting the rights of indigenous peoples, in particular their rights to lands, territories and natural resources, to consultation and consent, and to political participation. In 1990, the Inter-American Commission on Human Rights established the mandate of the Rapporteur on the rights of indigenous peoples (one of the members of the Commission) to focus special attention on indigenous peoples in America. In 2001, the African Commission on Human and Peoples' Rights established its Working Group on indigenous peoples/communities in Africa, composed of three members of the African Commission.

At national level, domestic courts have protected indigenous peoples' rights in a number of cases, directly applying the UNDRIP, or using it to interpret rights

recognized in domestic law or in other international instruments. This is the case for example in Colombia, where the Constitution enshrines specific indigenous peoples' rights, and

where the 2016 peace accords have been translated into 56 indigenous languages. Several national human rights institutions also included the protection of indigenous peoples' rights and the monitoring of the UNDRIP in their work.

With the adoption of the UNDROP in 2018, it is now time for human rights mechanisms to offer a similar protection to the rights of peasants and other people working in rural areas, and include the monitoring of the UNDROP in their work.

**All human rights mechanisms should include the monitoring of the Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) in their work**

## **PARTICIPATION OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS IN THE WORK OF HUMAN RIGHTS MECHANISMS**

In their statement released on 17 December 2019, UN human rights experts have underlined that peasants and other people working in rural areas ‘shall be recognized as agents of change and essential actors in the local, national and international implementation of the UNDROP, and not just as victims of discrimination or in terms of vulnerability’. They have called for the creation of a UN Voluntary Fund for peasants and other people working in rural areas to support their participation in the activities of the UN system. They added that the effective implementation of the UNDROP will not be realized without meaningful grassroots engagement.

Human rights mechanisms should protect and promote the right of peasants and other people working in rural areas to participation in all decision-making processes that may affect their lives, lands, resources and livelihoods, enshrined in articles 2. 3 and 10.1 of the UNDROP. These mechanisms should also make sure that peasants or their representatives can fully participate in the human rights systems, as there will be no effective monitoring of the UNDROP without the full participation of peasants and other people working in rural areas in the work of human rights monitoring mechanisms.

## **ROLE OF HUMAN RIGHTS MECHANISMS IN MONITORING THE IMPLEMENTATION OF THE UNDROP**

All human rights mechanisms, including the UN Human Rights Council, special procedures and treaty bodies, as well as regional and national human rights mechanisms should include the monitoring of the UNDROP in their work.

### **HUMAN RIGHTS COUNCIL**

The Human Rights Council played a key role in the elaboration of the UNDROP. In 2009, it invited La Via Campesina to submit proposals for remedies to the 2008 world food crisis, an invitation to which La Via Campesina responded by presenting its Declaration on the Rights of Peasants – Women and Men.

In March 2010, the Human Rights Council mandated its Advisory Committee to undertake a study on ways and means to further advance the rights of peasants and other

people working in rural areas, and to present it to the Human Rights Council in March 2012.

In September 2012, the Human Rights Council followed the main recommendation of the Advisory Committee, in adopting a new resolution on the promotion and protection of the rights of peasants and other people working in rural areas. The resolution established an open-ended intergovernmental working group (WG) to elaborate the UN Declaration. Five sessions of the WG took place between 2013 and 2018. After 6 years of negotiation, the Human Rights Council adopted the UNDROP on 28 September 2018,

followed by the UN General Assembly on 17 December 2018.

Now that the UNDROP has been adopted, the UN Human Rights Council should systematically include the

monitoring of the UNDROP’s implementation in its work. It should include explicit references to the UNDROP in all relevant resolutions, and in the mandates that it gives to subsidiary bodies and special procedures, as well as in the reports that it requests from the UN Secretary-General and OHCHR.

UN Member States should also systematically use the Universal Periodic Review (UPR) of the Human Rights Council as a monitoring mechanism to push for the implementation of the UNDROP in other UN Member States, including by increasing the number of UPR recommendations on the UNDROP or the specific rights that it enshrines.

As provided in the statement of UN human rights experts in December 2019, the Human Rights Council should also create a new special procedure – a UN special rapporteur or a UN working group – on the rights of peasants and other people working in rural areas. This would be its most important contribution to the implementation of the UNDROP.

### **UN SPECIAL PROCEDURES**

The UN Special Rapporteur on the right to food has played a key role since the start of the discussions on the need to elaborate the UNDROP, until its adoption in 2018.

On 17 December 2019, nine UN special procedures – together with four members of UN treaty bodies – explained that they witnessed in their work the need to better protect the rights of peasants and other people working in rural areas. They stated that the implementation of the UNDROP represents a unique and precedent-setting opportunity to redress various forms of discrimination, systematic

violations of human rights and historical disadvantage that for decades have affected peasants and other people working in rural areas, who represent 80 percent of the world's hungry and 70 percent of those living in extreme poverty. They also underlined that it is key to better protect rural women, who play a crucial role in the realization of the right to food, but are the first victims of discrimination, and with girls represent 70 percent of the world's hungry.

UN human rights experts urged states to implement the UNDROP in good faith, and to pay particular attention to the rights and special needs of women and girls and of those who live in vulnerable situations and/or who have historically been discriminated against, including older persons, youth, children, ethnical minorities and persons with disabilities.

They also underlined that special measures shall be taken by states and other stakeholders to protect human rights defenders of land, environment and natural resources – who are the first victims of criminalization, intimidation and attacks against their physical integrity and life – and that their safety must be prioritized and protected via all available mechanisms.

They also called the Committee on World Food Security and UN specialized agencies, funds and programmes to integrate the implementation of the UN Declaration in their work, and the International Monetary Fund (IMF), the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO) to take the UNDROP into account in their work. They added that the UNDROP should be mainstreamed into the strategies aimed at achieving the Sustainable Development Goals (SDGs).

All UN special procedures should include the monitoring of the UNDROP in their thematic and country visit reports, and in their communications to states and other stakeholders. Having very broad mandates, including the protection of ESCR, civil and political rights, human rights defenders, the rights of women, persons with disabilities, migrants, older persons and minorities, the promotion of international solidarity, and the effects of foreign debt on ESCR, they are in a unique position to make recommendations on the implementation of the UNDROP.

The dialogues that they can initiate at the national level, coupled with recommendations based on country visits, are also extremely valuable, as they are context-specific and provide states with an understanding of whether the undertaken processes are adequately integrating human

rights principles, protecting the rights of peasants, and implementing the UNDROP.

## UN TREATY BODIES

During the elaboration of the UNDROP, a number of UN treaty bodies' general comments / recommendations, including CEDAW General Recommendation No. 34 on the rights of rural women, were used in the drafting of the UNDROP.

In their statement released in December 2019, members of four UN treaty bodies – the Committee on Migrant Workers, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and Committee on the Rights of the Child – committed to integrate, or recommend the integration of the monitoring of the UNDROP in the exercise of their mandates, protect the rights of peasants and other people working in rural areas, and provide guidance to states on how they can implement the UNDROP.

The UNDROP builds on a number of international treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The fact that it has taken agreed language from these international treaties, the implementation of which is monitored by UN treaty bodies, will make the work of UN treaty bodies easier.

All UN treaty bodies should include the monitoring of the UNDROP in their examination of state parties' periodic reports and in their concluding observations, as well as in their general comments/recommendations in which they define the rights and states obligations in their respective treaties. They should also include the protection of the rights of peasants and other people working in rural areas in their examination of communications.

The fact that they can monitor the implementation of the UNDROP in so many states parties, from the perspective of ESCR, civil and political rights, racial discrimination, women's rights, children's rights, the rights of persons with disabilities and the rights of migrant workers puts them in an ideal position to make a difference, at both national and global levels.

## **Human rights mechanisms should push states and international and regional organizations to properly implement the UNDROP**

## **REGIONAL AND NATIONAL HUMAN RIGHTS MECHANISMS**

It is also essential that regional human rights bodies, including the Inter-American Commission on Human Rights, the Inter-American Court on Human Rights, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the European Court on Human Rights, the European Committee of Social Rights, the Association of Southeast Asian Nations Intergovernmental Commission on Human Rights, and the Arab Human Rights Committee, better protect the rights of peasants and other people working in rural areas. The African Human Rights Commission should establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create the mandate of a Rapporteur on the rights of peasants and other people working in rural areas.

At national level, it is essential that courts protect the rights of peasants and other people working in rural areas, by directly applying the UNDROP, or by using it to interpret rights recognized in domestic law or other international instruments. National human rights institutions should also monitor the UNDROP, including through awareness raising activities, the analysis of the compatibility of laws with the UNDROP, creating mechanisms to receive and review complaints about violations of the rights enshrined in the UNDROP, and the production of annual reports on the implementation of the UNDROP for national, regional and international bodies.

## **CONCLUSION AND RECOMMENDATIONS**

The UNDROP was adopted in 2018. It is now crucial that human rights mechanisms include the monitoring of its implementation in their work. Having very broad mandates, including on the protection of ESCR, civil and political rights, racial discrimination, the rights of women, children, persons with disabilities, migrants, older persons, minorities, and human rights defenders, the promotion of international solidarity, the impact of hazardous substances and wastes on human rights, and the effects of foreign debt on ESCR, they are in a unique position to make recommendations on the implementation of the UNDROP.

## RECOMMENDATIONS

- Human rights mechanisms should integrate the monitoring of the UNDROP in the exercise of their mandates, protect the rights of peasants and other people working in rural areas, and provide guidance to states on how they can implement the UNDROP.
- Human rights mechanisms should protect and promote the right to participation of peasants and other people working in rural areas. These mechanisms should also make sure that peasants or their representatives can fully participate in the human rights systems, as there will be no effective monitoring of the UNDROP without the full participation of peasants and other people working in rural areas in the work of human rights monitoring mechanisms.
- The UN Human Rights Council should systematically include the monitoring of the UNDROP's implementation in its work. It should include explicit references to the UNDROP in all its relevant resolutions, and in the mandates that it gives to subsidiary bodies and special procedures, as well as in the reports that it requests from the UN Secretary-General and OHCHR.
- The Human Rights Council should create a new special procedure – a UN special rapporteur or a UN working group– on the rights of peasants and other people working in rural areas.
- UN Member States should systematically use the Human Rights Council's UPR as a monitoring mechanism to push for the implementation of the UNDROP in other UN Member States, including by increasing the number of UPR recommendations on the UNDROP or the specific rights that it enshrines.
- UN special procedures should systematically include the monitoring of the UNDROP in their thematic and country visit reports, and in their communications to states and other stakeholders.
- UN treaty bodies should systematically include the monitoring of the UNDROP in their examination of state parties' periodic reports and in their concluding observations, as well as in their general comments / recommendations in which they define the rights and states obligations in their treaties. They should also include the protection of the rights of peasants and other people working in rural areas in their examination of communications.
- Regional human rights bodies, including the Inter-American Commission on Human Rights, the Inter-American Court on Human Rights, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the European Court on Human Rights, the European Committee of Social Rights, the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights, and the Arab Human Rights Committee should include the UNDROP in their work, and protect the rights of peasants and other people working in rural areas.
- The African Human Rights Commission should establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create a mandate for a Rapporteur on the rights of peasants and other people working in rural areas.
- At national level, domestic courts should protect the rights of peasants and other people working in rural areas, by directly applying the UNDROP, or by using it to interpret rights recognized in domestic law or other international instruments.
- National human rights institutions should also include the monitoring of the UNDROP in their work, including through awareness raising activities, the analysis of the compatibility of laws with the UNDROP, creating mechanisms to receive complaints about violations of the rights enshrined in the UNDROP, and the production of annual reports on the implementation of the UNDROP for national, regional and international bodies.

## SELECTED REFERENCES IN RELATION TO HUMAN RIGHTS MECHANISMS AND THE UNDROP

### UNDROP

Statement on the occasion of the 1st anniversary of the adoption of the UNDROP – The need to take steps to implement the UNDROP

Negotiation of the UNDROP

The Implementation of the UNDROP

The Right to Seeds in Europe. The UNDROP and the Protection of the Right to Seeds in Europe

Book on the UN Declaration on the Rights of Peasants

La Via Campesina Declaration of Rights of Peasants – Women and Men

UN Special Rapporteur on the right to food

CEDAW Committee General Recommendation 34 on the rights of rural women

UN Special Rapporteur on the rights of indigenous peoples

UN Expert Mechanism on the rights of indigenous peoples

Making the Declaration Work – The United Nations Declaration on the Rights of Indigenous Peoples

## THE GENEVA ACADEMY

The Geneva Academy provides post-graduate education, conducts academic legal research and policy studies, and organizes training courses and expert meetings. We concentrate on branches of international law that relate to situations of armed conflict, protracted violence, and protection of human rights.

## SUPPORTING THE IMPLEMENTATION OF THE UNDROP

In 2018, the UN Human Rights Council and General Assembly adopted the UNDROP. After having provided academic support to the negotiation of the UNDROP for ten years, the Geneva Academy project on the rights of peasants promotes the implementation of the UNDROP, through publications, conferences, expert seminars, and training courses.

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