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Report of the open-ended intergovernmental working group on the draft United Nations declaration on the rights of peasants and other people working in rural areas

Chair-Rapporteur: Angélica C. Navarro Llanos

Summary

The Chair-Rapporteur has the honour to transmit to the members of the Human Rights Council the report of the open-ended intergovernmental working group on the draft United Nations declaration on the rights of peasants and other people working in rural areas, submitted in accordance with Human Rights Council resolutions 21/19 and 26/26.



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I. Introduction

1. The open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas (hereinafter, “the working group”) was established by the Human Rights Council in its resolution 21/19 and recalling Council resolutions 13/4, 16/27 and 19/7, with a mandate of negotiating, finalizing and submitting to the Human Rights Council a draft United Nations declaration on the rights of peasants and other people working in rural areas. Council resolution 26/26 of 23 June 2014 mandated the working group to hold its second session for five working days before the twenty-ninth session of the Council; requested the Chair-Rapporteur of the working group to conduct informal consultations with Governments, relevant special procedures of the Human Rights Council, regional groups, intergovernmental organizations, United Nations mechanisms, civil society and representatives of peasants and other people working in rural areas; requested the Chair-Rapporteur of the working group to prepare a new text on the basis of the discussions held during the first session of the working group, the draft declaration presented by the Advisory Committee, and the informal consultations to be held, and present it to the working group at its second session for consideration and further discussion. The resolution also requested the Office of the United Nations High Commissioner for Human Rights to provide the working group with the human, technical and financial assistance necessary for it to fulfil its mandate; and requested the working group to submit to the Council for consideration at its thirtieth session a report on progress made, which should be published as an official document in all the official languages of the United Nations.

2. Following the resolution, the working group held its second session from 2 to 6 February 2015.

3. The second session was opened by Craig Mokhiber, Chief, Development and Economic and Social Issues Branch on behalf of the United Nations High Commissioner for Human Rights on 2 February 2015. Mr. Mokhiber noted that people working in rural areas were more vulnerable to emergencies, diseases and conflicts because of the multiple forms of discrimination they faced from long-term failures by States to protect, respect and fulfil their rights. Mr. Mokhiber highlighted that people working in rural areas also faced structural inequalities that often impacted upon small-scale farmers’ abilities to protect agricultural values, determine prices and access markets for agricultural production, as well as to facilitate biological diversity.

II Organization of the session

A. Election of the Chair-Rapporteur and the Vice-Chair

4. At its second session, on 2 February 2015, the working group re-elected Ms. Navarro Llanos (Plurinational State of Bolivia) as its Chair-Rapporteur, by acclamation. Guatemala, on behalf of the Latin American and Caribbean Group, stated that it had nominated Ms. Navarro Llanos based on the leading role of the Plurinational State of Bolivia in moving the working group forward and her leadership in the first session of the working group and intersessional informal consultations. Guatemala further underscored that Ms. Navarro Llanos possessed all the necessary credentials to successfully carry out and accomplish her mandate.

5. Owing to the ill health of Ms. Navarro Llanos, the 5th meeting of the session (3 February 2015, morning) was suspended and the Chair-Rapporteur proposed electing a

Vice-Chair as a temporary measure to ensure continued smooth proceedings of the rest of the second session of the working group. The 5th meeting of the session was resumed in the afternoon. A representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR), on behalf of the Secretary-General of the United Nations, opened the meeting and, hearing no objection on the Chair's proposal, proceeded to the election of a Vice-Chair. Guatemala nominated Luis Espinoza (Ecuador). With no other nominations, Luis Espinoza was elected as Vice-Chair of the open-ended intergovernmental working group on the draft United Nations declaration on the rights of peasants and other people working in rural areas, and he assumed the responsibility for the rest of the second session of the working group as a temporary measure. The Vice-Chair chaired the 5th, 6th and 7th meetings.

B. Attendance

6. Representatives of the following States Members of the United Nations attended the meetings of the working group: Afghanistan, Algeria, Austria, Argentina, Bahrain, Bangladesh, Plurinational State of Bolivia, Botswana, Brazil, Chile, China, Colombia, Cuba, Costa Rica, Czech Republic, Ecuador (on behalf of the Latin American and Caribbean Group), El Salvador, Egypt, Ethiopia, Finland, France, Germany, Greece, Guatemala (on behalf of the Latin American and Caribbean Group), Italy, India, Indonesia, Iran (Islamic Republic of) (on behalf of the non-aligned movement), Iraq, Ireland, Japan, Jordan, Kuwait, Kyrgyzstan, Republic of Korea, Lao People's Democratic Republic, Latvia (on behalf of the European Union), Luxembourg, Malaysia, Mexico, Morocco, Myanmar, Nicaragua, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Russian Federation, Romania, Senegal, South Africa, Spain, Sri Lanka, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela (Bolivarian Republic of).

7. The following non-Member States were represented as observers: Holy See.

8. The following intergovernmental organizations were represented at the meetings of the working group: the European Union and the Food and Agriculture Organization of the United Nations (FAO).

9. The following non-governmental organizations (NGOs) in consultative status with the Economic and Social Council were represented: Foundation Bread for All, Center for Legal and Social Studies, Europe – Third World Centre, Friends World Committee for Consultation, Foodfirst Information and Action Network, Programme on Women's Economic, Social and Cultural Rights, Quaker United Nations Office, International Union of Food Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, Réseau International des Droits Humains, VIVAT International, United Villages and American Association of Jurists.

C. Documentation

10. The working group was provided with the new text of the draft declaration (A/HRC/WG.15/1/2) as well as the following documents:

(a) Resolution 21/19 on the promotion and protection of human rights of peasants and other people working in rural areas;

(b) Resolution 26/26 on the promotion and protection of human rights of peasants and other people working in rural areas;

(c) Final study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas (A/HRC/19/75);

(d) Report of the Chair-Rapporteur on the first session of the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas (A/HRC/26/48).

Adoption of the agenda and organization of work

11. In her opening statement, the Chair-Rapporteur thanked the delegation of Guatemala and the Group of Latin American and Caribbean Countries for her nomination as Chair-Rapporteur and welcomed their encouraging remarks about the working group. The Chair-Rapporteur informed the participants that two informal consultations had been held on 12 November and 4 December 2014. She also noted that all relevant information regarding the working group could be found on the OHCHR website. In referring to the draft declaration before the working group, the Chair-Rapporteur informed the working group participants that the programme of work would include two thematic panels, with eight panel participants. She noted that one panel would discuss the civil, political, economic, social and cultural rights of peasants and other people working in rural areas and gaps and the second panel would focus on rights of peasants and other people working in rural areas in other international instruments and gaps. The Chair-Rapporteur noted that, after the panel discussions, there would be an opportunity for general statements, followed by the first reading of the new draft of the declaration on the rights of peasants and other people working in rural areas. The Chair-Rapporteur highlighted that no list of speakers would be provided during the general statements, as the session would be open to all participants wishing to take the floor. She also highlighted that the reading of the draft declaration would be done in five groups of articles: the first would include articles 1 to 6, the second, articles 7 to 14, the third, articles 15 to 18, the fourth, articles 19 to 23, and the fifth, articles 24 to 30 of the draft declaration. The reading would take place over three and a half days and would be open to the floor. The Chair-Rapporteur also noted that there would be no public consultation at the first meeting of the last day and informed the participants that the final report would include: details of summaries of the debate, summaries of the panel discussions and a summary by the Chair-Rapporteur. The Chair-Rapporteur noted that she had conducted informal consultations with delegations and regional and political groups, and that she looked forward to fruitful group work based on the various views of the participants.

12. The Chair-Rapporteur noted the basic principles for conducting the session of the working group, namely transparency, inclusiveness, accountability and objectivity.

13. The Chair-Rapporteur asked if there were any opposition to the programme of work and, hearing no objections, declared the programme to be adopted.

III. Panel discussion

A. Panel discussion I. Civil, political, economic, social and cultural rights of peasants and other people working in rural areas and gaps

14. One panellist noted that the great majority of the rights in the draft declaration were not new rights, with many of them having been recognized in other international human rights instruments. The issue of small food producers was raised, as was the need for the recognition of the part they played in feeding the planet. It was also argued that small food producers needed to be informed about their rights and that the draft declaration, if it were

to be adopted, would help facilitate that transfer of knowledge. Some panellists argued that the right to water should include the right to water for irrigation use and should not be limited to water for sanitation or drinking purposes.

15. A number of panellists highlighted the need to protect peasants' civil and political rights, noting that often peasants lacked access to justice and were not given the same protection as to others. They were often persecuted, detained, arrested or subjected to violence upon the expression of their right to freedom of association and to protest. One panellist also noted that cattle breeders usually worked in different countries and therefore crossed international borders, which often meant their freedom of movement needed to be protected by all States concerned.

16. One panellist noted that indigenous peoples had historically been forgotten and that more emphasis needed to be placed on the relationship between peasants and indigenous people as they were often one and the same thing. They also noted that the vision of Mother Earth of indigenous peoples should be part of the declaration. Another panellist noted that cultural rights, including traditional forms of knowledge, had not been adequately protected in international law. However, there was a growing body of international law, such as article 15 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 21 (2009) of the Committee on Economic, Social and Cultural Rights on the rights of everyone to take part in cultural life on that article, the reports of the Special Rapporteur on the realization of economic, social and cultural rights and various multilateral treaties on biodiversity, cultural heritage and intellectual property, that recognized the right to cultural identity, including traditional forms of knowledge, and the obligations of States to respect, protect and fulfil cultural rights.

17. Some panellists noted that it was essential to include the principles of gender equality and non-discrimination in the draft declaration, as those were fundamental principles of international human rights law. It was emphasized that peasants and other people working in rural areas were frequently unable to enjoy human rights on an equal basis. International human rights mechanisms had observed that gender-based discrimination against rural women was widespread. It was also underlined that intersectional and compound forms of discrimination must be identified and remedied. Peasants and people working in rural areas were diverse and might be confronted with discrimination on the basis of several different grounds: gender, age, ability, socioeconomic status, ethnic origin, religion, etc. Intersectional forms of discrimination were quantitatively and qualitatively different from discrimination on a single ground and could give rise to mutually reinforcing violations of several different human rights. It was further noted that international law requires that both formal (*de jure*) and substantive (*de facto*) equality be guaranteed and that direct and indirect discrimination were effectively prevented and remedied. That necessitated the adoption of positive measures — including, where necessary, temporary special measures — to redress prior disadvantage and to ensure real equality of opportunity. Two panellists argued that rural women faced specific discriminatory barriers to equal access to productive land and resources, such as customary systems of land titles which frequently denied women direct rights of ownership or inheritance. They also noted that the Committee on the Elimination of Discrimination against Women was in the process of adopting a general recommendation on article 14 of the Convention on the Elimination of All Forms of Discrimination against Women that explicitly recognized rural women's rights to equality with respect to reproductive rights and health care, social security programmes, training and education, self-help groups, community activities, credit, adequate living conditions, prevention of gender-based violence, succession rights, inheritance and land rights.

18. It was also noted that international obligations concerning the availability, accessibility, adaptability and acceptability of education had not been adequately

implemented in rural areas. The international legal framework concerning the right to education was well developed in international law; however, the United Nations Educational, Scientific and Cultural Organization and other sources had noted that rural areas often lagged behind other regions in terms of the availability and accessibility of good-quality education. The right to education, as contained in article 26 of the Universal Declaration of Human Rights and article 13 of the International Covenant on Economic, Social and Cultural Rights, required States to ensure that formal and non-formal education was available and accessible to all on the basis of equality. Measures must be taken to ensure that every level of education from early childhood education to universal primary education, secondary and vocational education, tertiary education, and continuing and non-formal education, such as literacy and livelihood programmes, were effectively available and accessible without any discrimination.

19. It was emphasized that the right to education for peasants and people working in rural areas must be respected, protected and fulfilled and that the draft declaration should more adequately reflect the general international legal framework in that respect, while also highlighting the obligation (contained in draft article 28 of the declaration) of States to adapt education to the specific needs of peasants and people living in rural areas.

20. Some panellists noted that peasants' rights to health and a clean environment were often negatively affected by the use of chemicals. They noted that it was important that peasants had the right to control the use of pesticides and chemical products. They further noted that peasants should have the right to know what health problems could be caused by use thereof, such as cancer, diabetes and high blood pressure. One panellist highlighted the need for peasants to have a right to keep their own seed and to be able to take decisions not to use genetically modified organisms. Some panellists noted that peasants could not control market prices alone, as prices were also determined by the level of demand, and that their rights to a decent income and an adequate standard of living should be protected.

21. During the panel discussions, the Chair-Rapporteur informed the participants that, in her view, new human rights were often created and rights had been adapted, that intersectional discrimination against most vulnerable groups was common, and that a positive connotation of the word "peasant" was being led from the grass roots, as well as in the working group. The Chair-Rapporteur also noted that the incorporation of the concept of "Mother Earth" in the declaration could be included on the basis of previously accepted language.

22. In relation to a number of questions provided by the participants, panellists noted that States had the obligation to not remove peasants from their lands and to help facilitate food aid. They also had the obligation to protect them and to protect the prices of agricultural products so that peasants could access households and food. They noted that States must have the right to establish agricultural policies to further enable work with sustainable methods and sustainable development.

23. One panellist noted that the United Nations system as far back as 1948 had already declared the right to food and the right to an adequate standard of living for peasants and other people working in rural areas and that those rights had also been enshrined in the International Covenant on Economic, Social and Cultural Rights as well as in FAO instruments. Some panellists also highlighted the difference between individual and collective rights and their view that the great majority of the rights proposed were individual rights, which could only be meaningfully exercised collectively. One panellist noted that there were already examples of discrimination faced by various groups, such as indigenous peoples, persons from the Roma community and persons of African descent, and this was an opportunity to expand on what was meant by equality and non-discrimination within the context of specific groups. Another highlighted that anti-discrimination and equality rights had both negative and positive action, and that there was

a level of interpretation where every right was seen as having both negative and positive obligations attached to them. All the panellists argued that there was a need for a United Nations declaration on the rights of peasants and other people working in rural areas and urged that the text of the declaration be comprehensible and understandable in order for peasants to enjoy their rights.

B. Panel discussion II. Rights of peasants and other people working in rural areas in other international instruments and gaps

24. Two of the panellists highlighted the various applicable provisions of international law and the United Nations human rights mechanisms, including the special procedures, and FAO guidance on the promotion of the right to food. They also noted that the Committee on Economic, Social and Cultural Rights, in its general comment No. 12 (1999) on the right to adequate food, explained that the right to food included access to adequate food or means to obtain it; the availability of safe and nutritious food could be obtained through cultivation of land and therefore access to natural resources was fundamental dimension of the right to adequate food.

25. One expert noted that the United Nations Declaration on the Rights of Indigenous Peoples and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security re-emphasized human rights principles such as human dignity, gender equality, participation, transparency, accountability and rule of law, and that the FAO guidelines furthermore included in its general principles the duty of States to respect, safeguard and promote legitimate tenure rights. The guidelines also addressed, *inter alia*, restitution and redistribution of land, fisheries and forests, including the possibility to introduce limits on land property. It was clear that the intention of States when adopting those guidelines was not to create new rights but to give practical guidance in terms of policies and measures regarding the compliance of States with their obligations on the right to food. At the same time, it was clear that those guidelines represented an unprecedented international consensus about what States should do with respect to responsible governance of tenure. It was argued that this had contributed enormously to developing international law and what still needed to be clarified were the entitlements of the rights holders, such as the landless, peasants, artisanal fishers and nomadic pastoralists, with respect to land and natural resources, so that there was finally legal certainty about their rights to land and natural resources that could be claimed, including through the courts.

26. One expert discussed extensively the various International Labour Organization (ILO) conventions that supported the call for a declaration on peasants and other people working in rural areas. These included ILO Right of Association (Agriculture) Convention, 1921 (No. 11), Plantations Convention, 1958 (No. 110), Rural Workers' Organisations Convention, 1975 (No. 141), Indigenous and Tribal Peoples Convention, 1989 (No. 169), Safety and Health in Agriculture Convention, 2001 (No. 184) and those related to workers' rights. The panellist highlighted the various workers' rights in those conventions, such as freedom of association, the elimination of all forced or compulsory labour or child labour, the right to organize for agricultural workers, the obligation of States to actively encourage agricultural unions and ensure that national laws did not inhibit the work of those organizations, and detailed guidance on minimal wages, maternity protection, labour inspection, housing and medical care. She also argued that protection gaps remained, particularly in relation to migrant workers and rural women who were often subjected to sexual harassment in the workplace.

27. One expert explained that most of the rights introduced by the draft declaration and referred to as "new rights" were not completely "new" in international law, for they

reflected obligations that States had already undertaken in a number of international instruments. She noted that instruments for the protection of the environment and cultural heritage imposed on States the obligation to respect and protect traditional cultural practices of peasants and other people working in rural areas and to adopt measures to safeguard their access to natural resources, including lands and seed. She also noted that the right to participation and the principle of free, prior and informed consent were entrenched in a number of international instruments, some of them widely ratified, such as the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, the International Treaty on Plant Genetic Resources for Food and Agriculture and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity. The panellist also explained that international courts had increasingly recognized those rights and a number of States had already incorporated them into their national legal systems. She expressed her opinion that it was fundamental that the Human Rights Council compiled the existing legal guidance into one single instrument so as to secure the realization of the rights of peasants and other people working in rural areas all over the globe.

28. A number of participants asked the panellists to elaborate on the right to land and its consequences for States obligations. One panellist noted that normative gaps remained in relation to the right to land and that land should be recognized among the fundamental rights, as it was vital to rural communities' existence. She also noted that land was often privatized, sold and marketed without due attention to the fact that all human beings need land to live.

IV. General statements

29. Many delegations noted that they would not be able to provide comments on the draft declaration owing to the tight time frame since receiving the text, and therefore their comments and positions would be preliminary. For the same reason, many States who attempted to engage noted that they had to reserve their positions on the draft. A number of States highlighted their concerns regarding rights that were not already established as international human rights. They also raised concerns regarding the elaboration of existing human rights in the new draft declaration, and their reach beyond the agreed language. A number of delegations expressed concerns about the procedural process regarding the first draft declaration circulated by the Human Rights Council Advisory Committee. They argued that the Council had not mandated the drafting of the declaration and voiced concern regarding the scope and length of the latest version of the draft declaration. A number of States argued that the draft declaration focused too much on the rights of indigenous peasants and that, by singling out that group, others could be discriminated against. One State noted that the free, prior and informed consent principles were not appropriate in the draft declaration. Another delegation stated that the Human Rights Council was not the right forum for a declaration on peasants and other people working in rural areas. All delegations stated their willingness to participate in the working group in a constructive manner in order to find common ground and discuss appropriate ways forward.

30. A number of States highlighted their support for a United Nations declaration that specifically focused on the rights of peasants and other people working in rural areas, as a new human rights instrument. They argued that was due to the vulnerability of peasants and other people working in rural areas as a group and because they represented over a billion persons. Those States highlighted the mandate given by the Human Rights Council to the working group in resolutions 21/19 and 26/26 to negotiate, finalize and submit to the Council a draft United Nations declaration on the rights of peasants and other people

working in rural areas. They also stressed that the draft declaration was provided through informal consultations and collaboration through views from the first session of the working group held by the Council. A number of States noted that there was a need for delegations to come together to find a consensus on the text of the draft declaration and one State argued that this should be based on the principle of international solidarity. Many States congratulated the Chair-Rapporteur on her re-election and thanked her for her ongoing work on the draft declaration.

31. A number of NGOs highlighted their support for the new text of the draft declaration, noting they were satisfied with the new length and scope of the draft text. They welcomed the inclusion of civil and political rights and their application to the specific needs and realities of peasants. They welcomed the recognition of important rights, such as the right to land, the right to seed or the right to biological diversity, and noted that those so-called “new” rights were already agreed upon in other international instruments and that at one point all rights had been considered new. They also welcomed the inclusion of specific State obligations for each article and a general reference to extraterritorial obligations and non-State actors. Several NGOs noted that an effort had been made to use, as much as possible, agreed language and hoped that this would provide a more suitable basis for the negotiations and help all States to engage constructively. Furthermore, they recalled the importance of the declaration to better protect the rights and improve the livelihoods of millions of peasants, fisherfolk, pastoralists, nomads and others peoples working in rural areas who were victims of multiple forms of discrimination and human rights violations. They also emphasized that the adoption of the declaration would ultimately reinforce food security and food sovereignty at the global level, and thus benefit all humanity.

32. The participants agreed that there was a need to improve the situation of peasants and other people working in rural areas. In particular, some participants noted that extreme poverty, hunger and malnutrition were concentrated in rural areas, despite peasants’ substantial contribution to food security and food sovereignty. A number of participants also highlighted that 75–80 per cent of people affected by hunger and malnutrition were people working in rural areas and that peasants experienced discrimination in many forms. Participants also argued that women were especially vulnerable due to factors such as age, gender, marital status, indigenous and peasant identity. It was further noted that other challenges facing peasants included the denial of their means of livelihood, and their ability to control their own means of production and to set market prices for their products. The participants argued that those issues were detrimental to the livelihoods of peasants and other people working in rural areas.

33. A number of delegations and participants noted that the rights under discussion already existed as civil, political, economic, social and cultural human rights. They noted that economic, social and cultural rights such as the right to food, health, water, and education were regularly denied because States had often underinvested in facilities for peasant communities. They also noted that civil and political rights were denied because peasants who organized protests were often subjected to imprisonment, detention, laws and government policies that were used to limit their freedom of expression and association.

34. Some participants noted their support for the right to water and the need to widen the scope to include water used in agricultural production. They argued that, in developed countries, that right was already available, but it was being denied to small-scale farmers operating in developing countries. Other States argued that further analysis was needed of the elaboration of already agreed international language in relation to the right to water and sanitation.

35. A number of participants highlighted the various forms of discrimination faced by peasant women, owing to the lack of education available to women working in rural areas.

It was also argued that, if women were to be able to gain access to education, they would be able to fully participate and better fulfil their human rights. One participant also noted that some of the work that peasant women undertook was often invisible and limiting their access to education. They furthermore argued that States must address structural problems through targeted policies if they were to improve access to education. Another participant noted that women faced discrimination based on land policies and cultural practices, as they were often landless or culturally excluded, as land titles were often registered to the men in the family. The increasing price of land was also highlighted by one participant, who noted that it was for that reason that many in developed countries could not become small-scale farmers and that government policies were hindering their ability to work in rural areas. A number of NGOs noted that women should be specially recognized throughout the declaration because they are the poorest among the food-insecure peasants, and disenfranchised in entitlement to land and other rights. One NGO highlighted the need for the draft declaration to include miners and communities living in mining areas, and to take into account States and non-State actors' responsibilities and obligations towards them. Another NGO called for the declaration to include specific State obligations to respect, protect and fulfil the rights of peasants and other people working in rural areas, the State extraterritorial obligations with regard to those rights, the distinction between progressive and immediate realization of certain of those rights, and ways to ensure accountability.

36. Some participants also raised concerns over not including migrants under the definition of "peasant". They highlighted the need for special protection measures, especially in relation to migrant women, as they faced discrimination and limited access to land and other resources. They highlighted that there was often a lack of protection for migrants, including no access to health services, water and sanitation.

V. First reading of the draft United Nations declaration on the rights of peasants and other people working in rural areas

37. The Chair-Rapporteur noted that there were over 50 international conventions, covenants and instruments that had been used as the basis for the new draft declaration, including international human rights treaties and standards developed by the United Nations human rights mechanisms; regional human rights treaties; General Assembly and Human Rights Council resolutions; instruments adopted by FAO and ILO; and a number of other international treaties, outcome documents of international conferences, reports of the United Nations, as well as instruments developed by civil society, social movements, academics and experts.

38. The Chair-Rapporteur introduced articles 1-6, indicating the background of each article, and opened the floor for comments from representatives of States and civil society and other participants.

39. Many States reserved their position because of the late distribution of the draft declaration. Some stated that it was premature to present a draft at this session. Some participants raised concerns over the implementation of the declaration, highlighting that various human rights international declarations lacked implementation even after signing and ratification by the Member States. A number of participants also raised objections over the use of the term "peasants". They noted that the term was derogatory and disrespectful and asked for more discussion over it. Some participants argued that the definition under article 1 was narrow and proposed that it to be broader, while others said it was right to define "peasants" in article 1 of the declaration, but that the proposed definition was too broad. One State indicated that it would be difficult to comment on the text as it was only provided in English. That delegation noted that there was no concept of "peasants" in his

country and that the United Nations translation of “peasant” into Arabic was “farmer”, which could include large-scale farmers.

40. An NGO raised its concern that Dalits, tenants and sharecroppers were not included in the definition of “peasant”. It proposed that those groups be included in the definition of “peasants” within the framework of declaration.

41. Several delegates sought clarification of the phrase “access to natural resources” and its meaning and scope under the draft declaration. One delegation also raised concerns over the definition of natural resources and community right over them. Delegates also highlighted that, under article 2 of the declaration, extraterritorial obligations of States were noted, but said that more clarification was needed on the responsibilities of States and non-State actors. It was also argued that this term had been elaborated on, but specific responsibilities of international enterprises needed to be defined.

42. A number of States asked for further clarification of article 5 of the draft declaration and the concept of sovereignty. They argued that food sovereignty was a concept under discussion in international forums and not fully defined. Some NGOs also stated that food security and food sovereignty were two different concepts and should not be used interchangeably. They also argued that both terms should be defined clearly and developed sufficiently. One NGO noted that article 5 could be divided into two separate articles dealing with food security and food sovereignty independently. Another NGO noted that food sovereignty was, in its view, directly related to the right to self-determination and therefore should be central in the first articles of the draft declaration. A number of delegations noted that the language of article 5 should be grounded in human rights instruments, including the Universal Declaration of Human Rights.

43. One delegation argued that there was a need to use language relating to gender discrimination rather than gender identity because it was more universally accepted. Another delegation also sought clarification and elaboration of the terms “subsistence” and “small farm holders” and proposed the recognition of the term “justiciability” and the use of human rights principles such as discrimination, as well as the right to development, in the declaration.

44. Several NGOs, including representatives of peasants and other peoples working in rural areas, expressed their general support for articles 1-6. They welcomed the inclusive character of the definition of “peasant” and the recognition of the peasant identity. They proposed to include in the definition the specific relation of peasants with the land, the fact that peasants did not seek primarily profit and accumulation but rather their subsistence and the reproduction of their families. They insisted that they would prefer to see the notion of “peasant agriculture” used rather than “small-scale agriculture”. They welcomed the inclusion of the right to food sovereignty and suggested it could be separated from the right to sovereignty over natural resources, as those were two distinct issues. They also strongly supported the inclusion of article 6 on the right of rural women, as women were the most discriminated against in rural areas.

45. The Chair-Rapporteur introduced articles 7-14, indicating the background of each article and opened the floor for comments from States, civil society and all participants.

46. An NGO asked why the word “liberty” had been used instead of “freedom”, while another NGO noted that States must have effective mechanisms for the prevention of violations of the right to life. Another delegation noted that article 7 should be seen in the light of territorial unity and that the use of local customs must not be used as a justification to violate national and international law.

47. Participants highlighted that under article 9 of the draft declaration, freedom of movement of mobile peasants was not expressly defined. Some participants argued that

States should do more to promote cross-border mobility and facilitate free movement of herds, with proper safeguards. One participant proposed including collective remedy mechanisms in the declaration. Participants also highlighted the need for access to justice and justice mechanisms for women in rural areas.

48. Several NGOs, including representatives of peasants and other peoples working in rural areas, welcomed the inclusion in the new draft of those articles on civil and political rights. Those were already recognized as human rights, but they argued there was a need to include them in the declaration to give them more visibility and adapt them to the specific needs and realities of peasants. They noted that peasants and other peoples working in rural areas continued to suffer multiple violations of their civil and political rights, in particular their rights to freedom of association, freedom of thought, opinion and expression, and that they were often denied access to justice. They insisted that there were continual human rights violations against peasant leaders and that the right to life was being violated.

49. Some participants highlighted that under article 12 of the draft declaration, peasants should be given the right to participate in the formulation of government policy and programmes that affected peasants and other people working in rural areas. They argued that would enable peasants and other people working in rural areas to access information and markets easily. One participant highlighted the lack of participation in politics by peasants and other people working in rural areas and proposed that States ensure that there be at least 50 per cent participation rate for peasants in the decision-making process.

50. One participant noted that article 13 was too detailed and unrealistic and asked for detailed information in a timely fashion on the ways in which a purchaser intended to market produce purchased.

51. A number of participants raised concerns regarding article 14 and noted that the language should be more closely associated with agreed international human rights language. Some participants also noted that there was a need to introduce government policies for compensation for peasants and other people in rural areas facing human rights violations.

52. The Vice-Chair introduced articles 15-18, indicating the background of each article and opened the floor for comments from States, civil society and all participants.

53. A number of delegations raised concerns over the Chair-Rapporteur's description of the working group as holding a "favourable view" of the draft declaration, which was seen from their perspective as an inaccurate characterization of discussions. They also raised questions of the legal basis of new rights mentioned in the draft. They sought clarification regarding the procedure of work of the second session and asked the Vice-Chair to elaborate on what the outcome of the session would be. The Vice-Chair responded to those concerns by noting that the objective of the second session was to share views and information, and that there would not be a line-by-line examination of the draft text during the session. Some participants stated that they saw the current process as a first reading of the draft declaration. One delegation noted that it would like further information regarding the term "create an enabling environment" and associated State obligations in article 15. One delegation raised the point that it would need to consult labour experts on articles 15, 16 and 18 and asked if the Human Rights Council was the most appropriate forum for that discussion, rather than the International Labour Organization. One NGO noted that it supported article 15 of the declaration and recommended that migrant workers who worked in the agricultural sector be specifically highlighted, as they were often subjected to trafficking and exploitation. Another delegation noted that it was important to add references to forced and bonded labour in order to help fight against exploitation.

54. One delegation stated that a clear definition of peasants was needed so that government policies could focus on framing and implementing article 16. One delegate

argued that article 16 could be linked with other articles that refer to the right to health and inquired whether there was a need for separate articles. An NGO responded to that query by highlighting that it was appropriate to have an article on the right to safety and health at work, because peasants and other people working in rural areas worked in some of the most hazardous and dangerous work environments.

55. One delegation noted that article 17 should have more focused gender-mainstreaming language. The delegate had concerns surrounding price-setting and its impact on States' obligations. One NGO supported article 17, noting that the text should include as much as possible about nutrition and the right to a healthy diet. A number of participants asked for sources and clarification regarding the term "culturally acceptable food".

56. A number of States raised concerns regarding the language of article 18, noting that the suggested text pertaining to markets could imply that the Human Rights Council was going beyond its mandate. Another delegation also raised concerns regarding the term "community-based commercialization system" and asked for more clarification regarding the text. Two delegations highlighted their support for article 18 and noted that it was important that the article stayed in the draft declaration because it was important for peasants and other people working in rural areas to be able to sell their produce at prices that allowed for an adequate standard of living.

57. Several NGOs, including representatives of peasants and other peoples working in rural areas, stressed the importance of articles 15-18. They highlighted that those were economic, social and cultural rights already recognized but that needed to be given more visibility and applied to the specific needs and realities of peasants and other peoples working in rural areas. A number of participants stressed the importance of the right to food, as peasants and others peoples working in rural areas represented 80 per cent of those in the world that are hungry. The point was made that the key element of a right to food for peasants must be the right to produce food, and that aspect should be reinforced in the drafting of the article. Several participants also welcomed the inclusion of the right to a decent income in the declaration. They stressed that one major obstacle for peasants to have a decent income was the fact that peasants were not able to sell their production at a fair price. They proposed therefore the inclusion of some State obligations related to the need to regulate food markets in order to ensure a fair price for peasant products and also abuse of power by intermediaries, the dumping of agricultural products and the monopolies of transnational corporations be prohibited. They also stressed the necessity of including provisions on the need for States to support access to local markets for peasant production and stop applying to peasant products the same standards and regulations that they applied to industrial agricultural producers. Some participants also highlighted the issue of public subsidies and aids and proposed including the obligation of States to give priority to peasants for the attribution thereof. The problem of decent income for agricultural workers and the lack of implementation of existing instruments, including ILO instruments, was also highlighted by several participants and the point was made that the language of the article should be strengthened in that regard.

58. The Vice-Chair introduced articles 19-23, indicating the background of each article and opened the floor for comments from States, civil society and all participants.

59. A number of delegations noted that article 19 should be discussed in other United Nations forums and that many points in that particular article needed clarification. One delegation sought clarification on the sources for article 19. Other delegations noted that it was important to recognize those rights, building upon already agreed international standards, such as those existing on the responsible governance of land, fisheries and forests. A number of NGOs argued that, although the right to land was considered a "new" right, it was already established in other international instruments such as in the Declaration

on Social Progress and Development and that the right to land needed to be kept in the declaration, because peasants and other people working in rural areas had a specific cultural relationship with their land and territories. They also noted that business enterprises were able to claim their rights to land and private property, which was denied to peasants and other people working in rural areas.

60. One delegation raised concerns regarding article 20 and noted that they would like further clarification regarding the term “transboundary environmental harm” and how that impacted State obligations.

61. A number of delegations raised concerns regarding article 22 noting that it was a “new” right, and that it should be dealt with in a different United Nations setting. They noted that the proposed right was not in line with many national policies and trade agreements. It was also recommended by some delegations that the issue of seed rights should be taken up in the World Intellectual Property Organization rather than the Human Rights Council. Other delegations noted that it was important to include that right in the declaration, even if the wording could be adapted to take other international instruments into account. A number of NGOs argued that article 22 was key to the draft declaration because peasants and other people working in rural areas were subjected to pressure from business enterprises to use genetically modified seeds rather than seeds that they had traditionally used. They also noted that patent laws were being used to compel peasants and small-scale farmers to use seeds of specific companies.

62. A number of delegations noted that article 23 was considered to be a “new” right and therefore they would need to consult with their Governments. It was also argued that the right to biological diversity was not an issue for the Human Rights Council. Other delegations noted that the right was important for peasants and other people working in rural areas.

63. A number of NGOs, including representatives of peasants and other peoples working in rural areas, welcomed the new draft of articles 19-23, and stressed that those articles were probably the most important in the whole declaration. They highlighted in particular the right to land and the right to seeds as crucial for peasants and other peoples working in rural areas. They stressed that many elements in those articles were in fact not new but taken from other existing international instruments. On the right to land, several of those participants identified access to land and security of tenure as the key elements that should be recognized. They welcomed the effort to use agreed language but highlighted some important elements that had been lost in the process and that should be reintroduced, emphasizing in particular the agrarian reform, which, they argued, was recognized to a certain degree in a number of United Nations human rights conventions, but also the social function of land, the prohibition of latifundia and the obligation of States to act against the concentration of the ownership of land. One NGO suggested including specific extraterritorial obligations, as well as the obligation to regulate non-State actors.

64. The Vice-Chair introduced articles 24-30, indicating the background of each article and then opened the floor for comments from States, civil society and all participants.

65. A number of delegations noted their concerns regarding article 24 and asked for more clarification with regards to the terms “customary water management system”, “cultural use of water” and “use of water not only for personal use”. One delegation noted that the language used in article 24 could be considered discriminatory as it only referred to disadvantaged groups. Further clarification was requested as to the term “water poisoning”. Other delegations noted that the inclusion of that right in the declaration was important. One delegation also stated the view that, while it supported the right to water and sanitation, it was important for the language used to match national legislation. A number of NGOs noted that it was important to take into account the special need of peasants, including for

water for irrigation. They argued that the management of water should have local leadership, as peasants and small stakeholders understood the effect of the misuse of water. They also noted that peasants and other people working in rural areas wanted a fair and sustainable solution, considering the old systems for distributing water to be unfair and outdated.

66. Two NGOs noted that not only people who dwelt in urban areas had the right to social security; specific measures should be put into place to ensure that women, older persons and individuals affected by climate change were also protected. Some delegations supported the inclusion of the right to social security as that right was essential for peasants and other people working in rural areas. One delegation noted that different countries had different domestic laws, and that there was no universally recognized system for social security.

67. One delegation noted that the right to health was already recognized and that right, along with others, in the declaration were already well defined. A number of NGOs highlighted the need to include article 26 because of the need to keep references to the harmful effects of chemicals and other pesticides. They furthermore highlighted the negative effects of chemicals on peasants and other people working in rural areas, particularly with regard to women's reproductive rights.

68. A proposal was made to include the specific obligation of States to take measures to limit the use of chemicals in agriculture. The importance of article 25 on social security was also emphasized and its inclusion in the new draft was welcomed. Proposals were made to include the obligation of States to implement insurance against environmental and climatic events for peasants.

69. One delegation asked how article 30 of the draft declaration would be implemented.

70. At the end of the meeting, the Vice-Chair clarified the term "water poisoning", explaining it meant "slow poisoning" and provided the example of fish living in waters polluted by mercury, who consumed the mercury and then transferred it to humans.

71. The Vice-Chair introduced the preamble, indicating its background and sources, then opened the floor for comments from States, civil society and all participants.

72. A number of delegations noted that they felt the declaration gave special rights to people in certain groups and that this might negatively affect other groups of people. They also noted that they wanted to avoid ambiguities and said that more clarification was needed regarding the term "harmonious practices with Mother Earth". They also highlighted that each country had its own practices, and that the term did not have the same definition everywhere. They also noted that FAO, ILO and the World Intellectual Property Organization should have been consulted in the drafting process and that they were the adequate forums to discuss those topics, rather than the Human Rights Council. Another delegation noted that it would be better to analyse the existing declarations and conventions to address the various issues related to peasants and other people working in rural areas. Some delegations discussed on the extraterritorial scope of the declaration, highlighting that threats to peasants and other people working in rural areas often originated from outside the national territory.

73. A number of delegations thanked the Chair-Rapporteur and the Vice-Chair for the transparent way in which the working group had been conducted and noted that they were particularly satisfied with the mainstreaming of a gender perspective. One delegation also highlighted the need to focus more on children and people with disabilities.

74. One delegation noted they would prefer the term "food security" rather than "food sovereignty" because it was more widely accepted, and that they would prefer wording that was in line with language found in existing instruments of international human rights law.

75. One delegation noted that the preamble highlighted a number of international human rights treaties and instruments and that articles 22 (1) and 23 (1) should also be included in the preamble, as they did not generate any specific obligations. It also recommended that a reference be included to the International Conference on Agrarian Reform and Rural Development.

76. A number of States noted that, although they needed more time to further study and analyse the declaration, they were convinced that it was highly necessary to guarantee the rights of peasants and other people working in rural areas and to encourage the international community to support the declaration. One delegation also noted that articles 24-30 were essential to ensuring and protecting economic, social and cultural rights.

77. Another delegation noted that promoting and defending peasants and other people working in rural areas was essential and that the declaration would strengthen national and international initiatives to combat hunger and food crises and support the preservation of biodiversity. They also noted that clear instruments for economic and social inclusion of all those living in rural areas and fishing communities were needed and that the aim of the declaration was to ensure access to markets, credit and sophisticated irrigation mechanisms in order to reduce poverty. They also noted that guaranteeing social security and protection was still a major challenge, and that rural women had a key role to play.

78. One delegation argued that the declaration could contribute to improving the potential growth of peasants and other people working in rural areas by improving their welfare. It also noted that it supported the concept of food sovereignty, because it emphasized the need for fair trade, particularly for small producers. It furthermore noted that articles 5, 18 and 21-24 were key to the declaration because they guaranteed land, seeds, cultural knowledge, agricultural loans, ecosystems for future generations, marketing services, appropriate technologies, equal treatment in agrarian reform, and the quality of life of peasants and other people working in rural areas.

79. One NGO noted that farmers specifically in South Asia usually only referred to men and therefore requested that “peasant men and women” be added to the preamble.

80. One NGO noted that the concept of Mother Earth was not new within the United Nations system and that it was a valuable concept for peasants and other people working in rural areas, particularly in countries that recognized collective rights. They also noted that the consideration by the Human Rights Council of those rights from a human rights perspective emphasized their importance and the obligations of States to comply therewith.

81. Some NGOs highlighted the need for the text to be easy to understand for peasants and other people working in rural areas to read. They furthermore noted the need to acknowledge that it was important to remember the importance of peasants’ food production and their collaboration in maintaining the environment in the context of climate change. They also noted the importance of land, seeds and water as rights and highlighted that peasants and other people working in rural areas had a special relationship with nature. They argued that contributed to the preservation of biodiversity and that without food sovereignty it was almost impossible to guarantee any other human right. Welcoming the term “food sovereignty”, they noted that food security and food sovereignty were not the same thing and could not be used interchangeably.

82. A number of NGOs noted the discrimination that peasants faced and emphasized that they were the most vulnerable in accessing justice, particularly in the context of land reform and land grabs.

83. A number of NGOs underscored the importance for peasants and other people working in rural areas to have access to seeds and information especially on genetically modified organisms. One NGO also noted that when addressing development it was

important to clarify the distinction between drug trafficking and illicit crops, as some peasants had been arrested for drug trafficking for growing certain plants.

84. The Vice-Chair informed participants that they were able to submit comments in written form and closed the meeting, as there were no further requests.

85. The Chair-Rapporteur opened the final meeting to States, civil society and all participants of the working group for comments on the proposed language of the conclusion and the recommendations.

86. One delegation suggested changing the word “negotiations” to “discussions” as, it argued the word “negotiations” suggested that a formal dialogue had taken place during the second session of the working group. That position was supported by a number of delegations, who highlighted that they were not entering into negotiations because they had not been given a formal mandate by their Governments. They furthermore noted that the text of the draft declaration had not been translated into all official United Nations languages and had been distributed late. The delegations suggested including a change to the text in paragraph 91 (a) to include the word “continue”. Those positions were also held by other delegations.

87. A number of delegations noted that they disagreed with the other delegations and that negotiations had indeed taken place throughout the week because the very nature of holding a working group was to negotiate, and that the word “negotiation” was specifically mentioned in the various resolutions that set out the mandate of the working group. One delegation noted that, although the word “negotiation” was open to interpretation, they understood that any informal consultation held in the United Nations was by default a type of negotiation. One participant noted that they agreed that the word “negotiations” should remain and that they supported the delegations’ arguments.

88. The Chair-Rapporteur thanked all the participants and suggested taking out the word “negotiation” from where it was first mentioned in section 91 (b) but leaving the word in paragraph 91 (a), and the remaining text, while including the suggested word “continue”.

89. Hearing no objections from the floor, the text was adopted and the Chair-Rapporteur informed the participants that they could send any suggested changes to the secretariat by 20 February 2015. The Chair-Rapporteur also thanked the participants for their participation in the working group and closed the session.

VI. Conclusions

90. At the final meeting of its second session, the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas welcomed the participation of the Chief of the Development and Economic and Social Issues Branch from OHCHR, as well as a number of independent experts who took part in the panel discussions, acknowledged the constructive dialogue that took place between Governments, regional and political groups, civil society, non-governmental organizations and all other relevant stakeholders and took note of the inputs received from them.

VII. Recommendations of the Chair-Rapporteur

91. **Following the second session of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas, the Chair-Rapporteur recommended to the Human Rights Council that:**

(a) A third session of the working group be held to continue negotiating on the basis of the draft declaration presented by the Chair-Rapporteur at the second session of the working group, while taking into consideration the report of the Chair-Rapporteur on the second session, as well as informal consultations to be held in the intersessional period;

(b) Informal consultations with Governments, regional groups, intergovernmental organizations, United Nations mechanisms, civil society and representatives of peasants and other people working in rural areas, as well as other relevant stakeholders, be held by the Chair-Rapporteur in the intersessional period;

(c) The Chair-Rapporteur, with the support of OHCHR, intensify its efforts towards further engagement and active participation of all relevant stakeholders, in particular intergovernmental organizations, United Nations mechanisms, civil society and representatives of peasants and other people working in rural areas, in the work of the working group.

VIII. Adoption of the report

92. At its ninth meeting, on 6 February 2015, the working group adopted the draft report on its second session and decided to entrust the Chair-Rapporteur with its finalization.

Annex I

Agenda

1. Opening of the meeting.
2. Election of the Chair-Rapporteur.
3. Adoption of the agenda and organization of work.
4. Programme of work.
5. Panel discussion.
6. General statements, followed by the first reading of the draft declaration.
7. Adoption of the report.

Annex II

List of speakers for panel discussions

Panel discussion I. Civil, political, economic, social and cultural rights of peasants and other people working in rural areas and gaps

Christophe Golay, Geneva Academy of International Humanitarian Law and Human Rights

Jose Francisco Cali Tzay, Chair of the Committee on the Elimination of Racial Discrimination

Joanna Bourke-Martignooi, University of Fribourg

Genevieve Savigny, La Via Campesina

Panel discussion II. Rights of peasants and other people working in rural areas in other international instruments and gaps

Sofia Monsalve, Food First Information and Action Network International

Sue Longley, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations

Adriana Bessa, Geneva Academy of International Humanitarian Law and Human Rights

Henry Saragih, La Via Campesina
