

**FIAN INTERNATIONAL  
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**Rights to sovereignty over  
natural resources, development  
and food sovereignty**

**IN THE UNITED NATIONS  
DECLARATION ON THE RIGHTS OF  
PEASANTS AND OTHER PEOPLE  
WORKING IN RURAL AREAS**

This briefing on the rights to sovereignty over natural resources, development and food sovereignty is part of a series of briefings issued by FIAN International in order to support the negotiation on the draft text of the Un Declaration on the Right of Peasants and other People working in Rural Areas.

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

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This paper offers a short introduction to the right to development, the right to dispose of natural resources and the right to food sovereignty. The definition of each right is presented, followed by a discussion of the states' obligations under these rights and of the sources in international human rights law supporting the recognition of each of these rights for peasants and other people working in rural areas. The brief then discusses the rationale for including these rights in the proposed Declaration on the Rights of Peasants and other people working in rural areas, and identifies key elements that should be included in the Declaration text.



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# 1. THE RIGHT TO DEVELOPMENT

The right to development is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in and contribute to and enjoy economic, social, cultural, and political development in which all human rights and fundamental freedoms can be fully realized”<sup>1</sup>.

The right to development was recognized in the 1986 Declaration on the Right to Development as both an individual and collective right. According to the 1986 Declaration, measures for realizing the right to development shall ensure “equality of opportunity for all” in their access to basic resources, education, health services, food, housing, employment and in the fair distribution of income. The realization of this right also requires that women have an active role in the development process, and that “appropriate economic and social reforms should be carried out with a view to eradicating all social injustices”<sup>2</sup>.

States hold “the primary responsibility for the creation of national and international conditions” favourable to the realization of this right<sup>3</sup>. At the national level, this means that “states have the right and the duty to formulate appropriate national development policies”<sup>4</sup> (the external dimension), and that they “should encourage popular participation in all spheres”<sup>5</sup> (the internal dimension). At the international level, this means that states have duty to cooperate with each other in ensuring development and diminishing obstacles to development and in realizing all human rights for all.

Peasants and other people working in rural areas, as people, are already entitled the right to development. Yet, they are often excluded from decision-making in the areas that affect their lives and livelihoods and are not included in the formulation of food, agriculture, rural development, economic, trade and financial policies (the internal dimension). In addition, states often fail to formulate such policies in a way that responds to the interests and needs of peasants and other people working in rural areas (the external dimension), in part because peasants are not identified as a group suffering from structural human rights violations and specific forms of discrimination.

It is thus important to reaffirm that peasants and other people working in rural areas – **as rural communities** – have “the right to determine and develop their own priorities and strategies for exercising their right to development”, as stated in art. 5.3. of the advanced version of the Declaration. This is particularly important at the local and regional levels, in a context where rural communities



are increasingly faced with rapid urban development and industrialization, leading to competing uses and acquisitions of land that could further increase inequalities and pose threats to their livelihoods.

If the right to development was originally affirmed in a post-colonial era (mostly as a right of states) and was associated with a certain “development” path that heavily relied on modernization and industrialization, it is important to assert that there are today various conceptions and understandings of what the development process entails, and that peasants and other people working in rural areas should be included as full participants in that dialogue.

1 First article of the Declaration on the Right to Development, adopted by the United Nations General Assembly, resolution 4/128 on December 4, 1986.

2 Art 8. of the Declaration on the Right to Development, adopted by the United Nations General Assembly, resolution 4/128 on December 4, 1986.

3 Art 3. of the Declaration on the Right to Development, adopted by the United Nations General Assembly, resolution 4/128 on December 4, 1986.

4 Art. 2 clause 3 of the Declaration on the Right to Development, adopted by the United Nations General Assembly, resolution 4/128 on December 4, 1986.

5 Art. 8 of the Declaration on the Right to Development, adopted by the United Nations General Assembly, resolution 4/128 on December 4, 1986.

## 2. THE RIGHT TO DISPOSE OF NATURAL RESOURCES

The right of peasants and other people working in rural areas to dispose of natural resources can be defined as their right to exercise control over the natural resources in their vicinity and on which they depend for their livelihood.

The right to freely dispose of natural wealth and resources is recognized in international human rights law as a right of the people. It is asserted in both the International Covenant on Civil and Political Rights and in the International Covenant on Economic Social and Cultural Rights<sup>6</sup>.

The right to dispose of natural resources – understood as the right to participate in, and benefit from, the exploitation of natural resources – is considered a collective right. It is a central aspect of the right to self-determination, and closely associated to the right of a people not to be deprived of its own means of subsistence<sup>7</sup>.

The issue of how such a right of the people interacts with the international legal principle of States' sovereignty over their natural resources, which is a well-established principle in public international law, has long been a controversial issue<sup>8</sup>. This tension between states and their people over who controls natural resources, has been particularly detrimental to peasants and other people working in rural areas, whose lack of access to land (and to the natural resources it contains) has contributed to their food insecurity and vulnerability (see briefing on Right to land), in some cases threatening their right to life.

What is commonly acknowledged is that the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised "in the interest of their national development and of the well-being of the people of the State concerned"<sup>9</sup>. In other words, there is a limitation to state's sovereignty because states have to ensure that natural resources are used and exploited in a way that is beneficial to the people. However, the scope of this limitation has proved difficult to translate in practice.

The Declaration could provide very useful guidance on this point, by integrating recent developments in international law on the right to food and the emerging right to land. Indeed, since the adoption of the FAO Voluntary Guidelines on the Right to Food in the context of national food security in 2004, access to land and natural resources has been recognized (in Guideline 8) as a key component of the human right to adequate food. Improving access to land and

natural resources for the rural poor is now recognized as a fundamental component of any strategy aimed at implementing the right to food. In addition, the importance of reinforcing land tenure security and of protecting "legitimate tenure rights" has been reasserted in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security adopted in 2012 by the Committee on World Food Security.

These developments are promising and the Declaration provides an important opportunity to assert the right of peasants and other people working in rural areas to stay on the land that provides them with a source of livelihood (see Right to land brief) and to dispose of the natural resources it contains.

In practice, this right means that, as stated in art. 5.1 of the advanced version of the Declaration, peasants and other people working in rural areas "have the authority to manage and control their natural resources and to enjoy the benefits of their development and conservation". As argued by Gilbert, this right has been recognized for indigenous peoples and there is no reason this right should not be extended to other rural communities in the vicinity of natural resources<sup>10</sup>, if these communities depend on these resources for their subsistence.

This right would include the right to free prior and informed consent, meaning that states should consult and cooperate with peasants and other people working in rural areas and their representative institutions and seek their free prior and informed consent prior to the approval



6 Art. 1 clause 2 of both Covenants reads: "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence".

7 Cristophe Golay and Melik Özden, "The Right of Peoples to Self-Determination and to Permanent Sovereignty over Their Natural Resources Seen from a Human Rights Perspective" (Centre Europe Tiers-Monde (CETIM), October 2010).

8 Jeremie Gilbert, "The Right to Freely Dispose of Natural Resources: Utopia or Forgotten Right?," *Netherlands Quarterly of Human Rights* 31/2 (2013): 314–41.

9 Ibid.

of any project that may affect their livelihoods<sup>11</sup>. This is covered in the advanced version of the Declaration, which states in art. 5.1. that, by virtue of this right, peasants and other people working in rural areas have “the right to decide whether or not to grant access to the natural resources in their communities, and to obtain fair and equitable participation in benefits arising from their utilization”. The text could go further and grant peasant and other rural communities the right to set the conditions for the utilization of the resources they rely on for their subsistence.

In order to implement and respect this right, “states should take measures to ensure that any exploitation of the natural resources peasants and other people working in rural areas traditionally hold or use, is only permitted if:

- a social and environmental impact assessment has been conducted by independent and technically capable entities with individual and collective involvement of peasants and other people working in rural areas;
- the free, prior and informed consent of peasants and other people working in rural areas has been obtained;
- the modalities for sharing the benefits of such exploitation between those exploiting the natural resources and the peasants and other people working in rural areas have been established, on mutually agreed terms” (as stated in art. 5.6. of the advanced version of the Declaration).



11 As recognized for indigenous peoples in art. 32 of the UNDRIP : “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”.

### 3. THE RIGHT TO FOOD SOVEREIGNTY

Food sovereignty is an emerging new collective right that has been defined<sup>12</sup> by peoples’ movements and civil society as: “the right of peoples to healthy and culturally appropriate food produced through socially just and ecologically sensitive methods. It entails peoples’ right to participate in decision-making, and to define their own food and agriculture systems”<sup>13</sup>.

Food sovereignty has been recognized as a right in a number of national constitutions, as well as documents adopted at the local/municipal and regional levels<sup>14</sup>. The Declaration represents a unique opportunity to establish food sovereignty as a human right of the people, recognized at the international level.

Food sovereignty is a broad multidimensional concept that covers various aspects of our food system. At its heart is the right of people to define and build their own food systems, from the ground up. The right to food sovereignty can be seen as a contemporary version of the combined right to development, right to self-determination and right to dispose of natural resources<sup>15</sup>. Food sovereignty is distinct from the right to food and from the concept of food security.



12 This definition was adopted by La Via Campesina and its partners at the Food Sovereignty Forum in Nyéléni (Mali) in February 2007. More than 500 representatives from more than 80 countries joined in elaborating this definition, representing organizations of peasants, family farmers, artisanal fisherfolk, indigenous peoples, landless peoples, rural workers, migrants, pastoralists, forest communities, women, youth, consumers and environmental and urban movements. See <http://nyeleni.org>

13 Nyéléni Food Sovereignty Forum, “Declaration of Nyéléni,” February 27, 2007.

14 For example, the Constitution of Ecuador, the Constitution of Bolivia, and the Declaration of Cochabamba on food security with sovereignty in the Americas, adopted by the General Assembly of the Organization of American States in June 2012.

15 Priscilla Claeys, “The Creation of New Rights by the Food Sovereignty Movement: The Challenge of Institutionalizing Subversion,” *Sociology* 46, no. 5 (October 2012): 844–60.

**Food sovereignty has been conceptualized as resting on 6 pillars, covering various dimensions of our food system. The 6 pillars can be described as follows:**

1. Food sovereignty **puts the right to sufficient**, healthy and culturally appropriate food for all individuals, peoples and communities and rejects food as commodity (see Right to food briefing)
2. Food sovereignty **values food providers** and respects their rights, in particular the rights of women and marginalized people (see Rights of rural women briefing) and rejects policies that threaten their livelihoods
3. Food sovereignty **localises food systems**
4. Food sovereignty **puts control locally, notably over natural resources** (see Right to land briefing)
5. Food sovereignty **builds knowledge and skills** (see Right to seeds briefing)
6. Food sovereignty **works with nature** (see Right to biodiversity and agroecology)

Many of these dimensions are covered by specific new rights that are elaborated upon in the Declaration, among others the right to land and the right to dispose of natural resources, the right to seeds, the right to biodiversity, the rights of rural women, and the right to remunerative prices (see other briefs). Some of the key dimensions of food sovereignty, however, are not covered explicitly in the proposed new rights listed in the Declaration and deserve particular attention. Three aspects in particular, that derive from the 2<sup>nd</sup> and 3<sup>rd</sup> pillars would benefit from being elaborated upon in the Declaration: relocalization, the ecological transition and citizen participation.

The first dimension of food sovereignty that could be elaborated in the Declaration is the importance of **relocalizing** our food system to rebuild short food chains and regenerate autonomous and resilient local food systems<sup>16</sup>. Relocalization requires concerted efforts and adequate laws, policies, programmes adopted at all governance levels by the international community, regions, states, municipalities, local governments and both rural and urban communities. In other words, relocalization requires the participatory elaboration of public policies to advance food sovereignty at the local, national, regional, and international levels, as well as mechanisms for ensuring coherence with the other agricultural, economic, social, cultural and development policies. This aspect is covered in art. 5.5 of the advanced version of the Declaration, but the importance of relocalizing food systems through a combination of alternative international trade rules and revitalized local and regional food systems and markets, could be reinforced. It is currently not sufficiently highlighted in the Declaration, aside from art. 21.2 which insists on local markets and art. 21.4 on local livelihood options.



<sup>16</sup> Michel Pimbert, "Food Sovereignty and Autonomous Local Systems," in Think Global, Eat Local Exploring Foodways (Pimbert et Al. Eds.), Rachel Carson Center Perspectives (RCC Perspectives, 2015).



The second dimension of food sovereignty that could be elaborated in the Declaration is the importance of transitioning to modes of producing, distributing and consuming food that are sustainable and resilient in the face of climate change, such as agroecology<sup>17</sup>. Of particular relevance for the Declaration is the **transition** to circular systems that mimic natural ecosystems and reduce farmers' dependence on suppliers of off-farm inputs and the food retailers<sup>18</sup>. The transition to agroecological, organic and sustainable production models is encouraged in art. 21.3 but the Declaration could further emphasize that food sovereignty also implies that states and other levels of government put an end to all policies that threaten the livelihoods of peasants and other people working in rural areas (as emphasized in the second pillar of food sovereignty).

The third dimension of food sovereignty that could be elaborated in the Declaration deals with the adoption of alternative ways of governing our food system, through increased **citizen participation** and reinforcing the role of peasant and other rural organizations. Indeed, reshaping our food system can only happen through bottom-up processes aimed at facilitating and ensuring the participation of all people who play a role in the food system. This dimension is covered in art. 5. 2 of the advanced version of the Declaration which states that: "Peasants and other people working in rural areas have the right to participate in decision-making in matters that would affect their rights, directly or through their representative organizations in accordance with their own customary laws and practices".

17 Olivier De Schutter, "Report of the Special Rapporteur on the Right to Food Presented at the 16th Session of the United Nations Human Rights Council [A/HRC/16/49]. 'Agroecology and the Right to Food'" (United Nations, March 8, 2011).

18 Pimbert, "Food Sovereignty and Autonomous Local Systems."

## **Article 5 – Rights to Sovereignty over natural resources, development and food sovereignty**

- 1. Peasants and other people working in rural areas have the right to sovereignty over the natural resources in their communities. They have the authority to manage and control their natural resources and to enjoy the benefits of their development and conservation. They have the right to decide whether or not to grant access to the natural resources in their communities, and to obtain fair and equitable participation in benefits arising from their utilization.
- 2. Peasants and other people working in rural areas have the right to participate in decision-making in matters that would affect their rights, directly or through their representative organizations in accordance with their own customary laws and practices.
- 3. Peasants and other people working in rural areas have the right to determine and develop priorities and strategies for exercising their right to development.
- 4. Peasants and other people working in rural areas have the right to food sovereignty. Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through socially just and ecologically sensitive methods. It entails peoples' right to participate in decision-making, and to define their own food and agriculture systems.
- 5. States shall elaborate, in partnership with peasants and other people working in rural areas and their organisations, and through international collaboration, public policies to advance food sovereignty, at the local, national, regional, and international levels as well as mechanisms for ensuring coherence with the other agricultural, economic, social, cultural and development policies.
- 6. States shall take measures to ensure that any exploitation of the natural resources peasants and other people working in rural areas traditionally hold or use, is only permitted if:
  - a social and environmental impact assessment has been conducted by independent and technically capable entities with individual and collective involvement of peasants and other people working in rural areas;
  - the free, prior and informed consent of peasants and other people working in rural areas has been obtained;
  - the modalities for sharing the benefits of such exploitation between those exploiting the natural resources and the peasants and other people working in rural areas have been established, on mutually agreed terms.





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