Peasants' rights and the UN system: quixotic struggle? Or emancipatory idea whose time has come?

Marc Edelman and Carwil James

The transnational agrarian social movement Via Campesina is campaigning to have the United Nations negotiate and implement a Declaration, and eventually an International Convention, on Peasants' Rights. This article analyzes the origins and demands of the campaign and the place of the claimed rights in international law. Peasant organizations hope to follow in the footsteps of indigenous peoples' movements that participated in the negotiations preceding the 2007 UN Declaration on the Rights of Indigenous Peoples. The peasants' rights campaign has succeeded in linking its demands to discussions of the right to food in the United Nations, where concern is growing over the approach of the 2015 target for realizing the Millennium Development Goals, in particular the halving of the numbers of people suffering from hunger. The campaign is likely to face stiff resistance from powerful UN member states, but could achieve substantial advances even if the path to a convention is difficult or never completed.

Keywords: peasants; human rights; United Nations; Via Campesina; transnational agrarian movements; civil society; social movements

Introduction

This article analyzes one contemporary case in the long expansion of human rights, the campaign of transnational agrarian movements – notably Via Campesina – to have the United Nations negotiate and implement a Declaration, and eventually an International Convention, on the Rights of Peasants (Via Campesina 2002, 2008b). In advocating for such a convention, Via Campesina has produced the 'Declaration of Rights of Peasants – Women and Men', sometimes called the 'Declaration on Farmers' Rights' (Via Campesina 2008b, 2008a, 2009a). The term 'farmers' rights' is used elsewhere to refer to traditional seed-saving practices that conflict with new intellectual property regimes requiring seed certification and licensing (Borowiak 2004).
transnational agrarian movements, particularly Via Campesina. Next we analyze the
genesis of the Peasants’ Rights Convention campaign and outline the rights claimed
in the draft text of the Declaration and their relation to those established in earlier
international human rights instruments. We argue that transnational agrarian
movements’ efforts to secure a Peasants’ Rights Declaration (and eventually a
Convention) represent both the progressive extension of the existing human rights
regime and a continuation of the democratization of rights-making. This
democratization was heralded by the three decades of efforts to draft and approve
the 2007 UN Declaration on the Rights of Indigenous Peoples. The campaign’s
strategy is to secure passage in the General Assembly of a nonbinding Declaration
as a first step toward a Convention, which, unlike a Declaration, would be
considered binding on signatory states and monitored by UN agencies (Via
Campesina 2009a, 4).

Given existing precedents, we then briefly consider what the negotiation and the
adoption of a Peasants’ Rights Convention are likely to entail. This effort could have
radical consequences if, against all odds, peasants prove to be the first economically
defined grouping to win a widely accepted human rights convention and, even more
radically, enforceable rights to self-determination.2 Either achievement would be
dramatic, however, and would give rise to some daunting obstacles. Many powerful
UN member states have long opposed any extension of economic and social rights.
Moreover, the international human rights regime is structured fundamentally
around states, while many of the violations of peasants’ rights that the proposed
Convention seeks to address result from the activities and policies of supra-state,
transnational or global and frequently unaccountable actors, especially – but not
only – the World Trade Organization (Narula 2010, Rosset 2006).

The article situates Via Campesina’s campaign for a Peasants’ Rights Convention
within three broader processes. First, normative understandings of human rights
have expanded over long historical time, in ongoing processes of political contention.
Rights that were once considered inconceivable are now either accepted or seen as
legitimate topics for discussion (Archibugi 2008, Cowan et al. 2001, Donnelly 1989,
Merry 2003, Messer 1993, Risse-Kappen et al. 1999). Second, in recent decades UN
agencies and other multilateral organizations have increasingly engaged in new
forms of collaboration with non-state actors, including social movements and non-
governmental organizations (NGOs) (Streets and Thomsen 2009). While inter-
governmental institutions such as the United Nations Food and Agriculture
Organization (FAO) had earlier formed occasional ties with national-level civil
society organizations, since the early 1990s grassroots pressure has contributed to the
emergence of durable alliances with transnational social movements (Borras 2010, 82
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2We will discuss briefly the other class-defined human rights convention, the Migrant Workers
Convention, ratified by 43 countries, which are generally migrant-sending rather than
migrant-receiving. We use ‘economically defined grouping’ here, because ‘class’ has different
meanings in legal and social scientific thought. Agrarian activists and scholars have long
debated the class character of the peasantry in the sociological sense, a discussion that is
beyond the scope of this article (see Bernstein and Byres 2001, van der Ploeg 2008). For our
purposes here, the heterogeneity of contemporary peasantries in social class terms is beyond
dispute, as is the reality that rights violations may impact agriculturalists that are diverse in
terms of resources, economic sectors, and production relations.
McKeon 2009). Third, as an outgrowth of the first two processes, transnational social movements have sought to use global governance institutions to deepen and institutionalize new conceptions of ‘rights’ that go beyond those codified in existing international instruments. Indigenous movements secured unprecedented influence in the structure and agenda of international organizations, generating institutions such as the UN Permanent Forum on Indigenous Issues (2002), gaining a regular seat at the table in certain UN system meetings, and securing passage of the ILO Convention Concerning Indigenous and Tribal Peoples (1989) and the UN Declaration on the Rights of Indigenous Peoples (2007). Now, transnational agrarian movements are seeking to follow in their footsteps.

Transnational agrarian movements’ incursion into rights making is an effort to legitimize peasants’ autonomous right to choose their economic and environmental model at the local level; this process is grounded in both the politics of the transnational agrarian movements themselves and in the growing space within the UN system for recognizing autonomy and for deepening rights to basic needs (such as food and water). This campaign is likely to face stiff resistance, but could achieve substantial advances even if the path to a convention is difficult or never completed.

**The proposed Convention’s place in the global human rights regime**

The United Nations system and the associated global human rights regime are among the most thoroughly institutionalized instantiations of universalism. Founded with the Allied effort to win World War II, the system grounded the postwar world order on an appeal to human rights and universal peace. It forms a nexus of rights-making that, like other universals, ‘beckon[s] to elite and excluded alike’ (Tsing 2005, 9). The international human rights regime has both this universal face and a sometimes partial system of voluntary adherence by nation-states. In general, nonbinding Declarations and international conferences have proclaimed rights to be universal (that is, applying to all), interdependent, and indivisible. However, the binding nature of both human rights and ILO labor rights Conventions has encouraged nations to be selective in their ratification of these documents. Most

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3The 1989 agreement was Convention 169 of the International Labor Organization (ILO), a UN agency. It established the rights of indigenous communities to their traditional territories and to the natural resources found in and on them. The ‘first substantive decision’ of the UN Human Rights Council (created in 2006 to replace a UN Commission on Human Rights tainted and dominated by undemocratic member states) was to approve the draft Declaration on the Rights of Indigenous People and to pass it on for a vote by the General Assembly. The 2007 Declaration by the UN General Assembly reaffirmed the rights enumerated in 1989 and went far beyond them in terms of land rights, self-determination and political autonomy (Anaya and Wiessner 2007).

4On the concept of an international human rights regime, see Donnelly (1986).

5In particular, the 1993 World Conference on Human Rights in Vienna declared, ‘All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis’ (World Conference on Human Rights 1993). The framers of the 1948 Universal Declaration of Human Rights experienced considerable anguish over its unenforceable, non-binding nature and its lack of legal limitations on the actions of states (Moyn 2010, 184–6, Sellars 2002, 1–24). Some of them nonetheless viewed the Universal Declaration as a ‘moral force’ that contributed to what today might be termed ‘norms evolution’.
dramatically, in 1966, differences between the United States and Soviet Union led to two separate International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights (Lewis 2007, 119–21). More recently, both the 1990 UN Migrant Workers Convention and the 1978 ILO Rural Workers Convention were only ratified by an interested minority of states.

Nonbinding Declarations, issued by vote of the United Nations General Assembly, often precede more rigorous Conventions, which must be ratified by nation-states, are considered binding on signatory member states, and are subject to review by monitoring agencies and, in some cases, international courts. In the interim, Declarations serve as normative models for governmental institutions, and are sometimes accepted as part of so-called customary international law (PFII 2010, paras. 23–26, Lillich 1995, O’Connell 2000, Anaya and Wiessner 2007).\(^6\) Inter-governmental institutions – including international financial institutions, regional organizations such as the OAS and EU, and quasi-independent organizations such as the Millennium Development Programme – may be uniquely influenced by the norms spelled out in declarations.\(^7\) A series of declarations also enumerated sets of rights that might be thought of as held by society: the right to peace, to scientific and technological progress, to a healthy environment, to development and – relevantly to peasants’ rights – to food (United Nations 1986).

The Human Rights Convention framework is applied to distinct categories of rights holders, ranging from all humans to discriminated racial groups (ICERD 1965), women (CEDAW 1979), children (CRC 1989), migrant workers (ICRMW 1990), and people with disabilities (CRPD 2006), among others. Each human rights convention tends to reiterate universally held rights before spelling out new ones within its particular area of concern. The evolving human rights regime thus has a series of pre-existing priorities that are often incorporated into new conventions.\(^8\) While each rights-claiming group is different, they go through a common pattern of identifying themselves as a global part of the human condition, asserting an equal claim to universal rights, and specifying rights that are particular to their unique situation. Via Campesina places itself squarely within this process. A fundamental argument for the Peasants’ Rights Convention, as summed up in a recent campaign statement, is that, ‘Almost half of the people in the world are peasants . . . There are already conventions

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\(^6\)Customary international law is that set of norms that arises from ‘consistent conduct of States acting out of the belief that the law required them to act that way’ (Rosenn 1984, 55). Sometimes the interval between an initial declaration and a legally binding treaty is substantial; the Declaration on the Rights of the Child, for example, passed in 1959, but it took 30 years before the Convention on the Rights of the Child entered into force. In 1981, the General Assembly approved the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (GA 36/55), but no international treaty has yet been approved that further protects freedom of belief (Burchill 2008, 55).

\(^7\)The OAS is currently drafting an American Declaration on the rights of indigenous peoples in an echo of the UN process. NGO pressure also led several IFIs (including the World Bank and the Inter-American Development Bank) to adopt human rights monitoring procedures for their projects in the past 20 years (Wirth 1998). The UN Permanent Forum on Indigenous Issues (cited above) is encouraging the UNFCCC climate change process to accommodate indigenous consultation and consent rights based on the UN Declaration. The July 2010 UN General Assembly resolution on the human right to water and sanitation is already being contemplated as a tool to influence the priorities of the Millennium Development Programme.

\(^8\)Core conventions, corresponding monitoring bodies and ratifying parties are listed by the UN High Commissioner on Human Rights at http://www2.ohchr.org/english/law/
that protect [other] vulnerable groups of people, such as indigenous peoples, women, children and migrant workers’ (Via Campesina 2009a, 1–3). 9

Many of the rights enumerated in the draft Peasants’ Rights Declaration were specified in other accords that date to early twentieth-century attempts to create an international human rights regime in the aftermath of World War I (Rodgers et al. 2009, McKeon 2009). In the 1920s, for example, the International Labor Organization approved several conventions on agricultural workers’ rights, including minimum age (ILO-10), workmen’s compensation (ILO-12) and health insurance (ILO-25). Not long after the founding of the United Nations, the 1948 Universal Declaration of Human Rights affirmed that everyone has the right to an adequate standard of living, including food, housing, medical care, and ‘the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’ (United Nations 1948, Art. 25). The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) reiterated the specification in the Universal Declaration of Human Rights of the right to organize and to enjoy an adequate standard of living; it also established ‘the fundamental right of everyone to be free from hunger’ (United Nations 1966, Art. 11). 10 Despite the recognition of this right, peasants (whose daily life involves food production) now make up half of the world’s hungry. Stepping into the gap between the right to food and the failure to eliminate hunger, Via Campesina coordinator Henry Saragih indicated in 2005, ‘with regards to the rights concerning food, the ESCR [i.e., ICESCR] only mentions access to food as the fulfillment of rights to food, whereas the right to produce food is much more fundamental to fulfilling the rights to food’ (Saragih 2005, 7, italics added). 11

The rise of transnational agrarian movements
That peasant organization activists such as Saragih now speak before the United Nations and other international organizations is indicative of a recent upsurge of new kinds of agrarian activism. These movements, which emerged in the late 1980s and early 1990s, have their proximate origins in the global farm crisis that began in the 1970s. The main features of the 1970s crisis were skyrocketing prices for petroleum and oil-based inputs, particularly fertilizer and pesticides; sharply higher interest rates, resulting from oil-price shocks and monetary policies intended to slow inflation; and the breakdown of the Bretton Woods system of capital controls and fixed

9The claim that ‘almost half of the people in the world are peasants’ probably overstates the numbers of this group, however it might be defined, and its proportional weight in the global population. Nonetheless, peasants, farmers and agricultural laborers are still a major component of the world population, even though as countries industrialize, the proportion of their economically active population in agriculture tends to decline. FAO data indicate that today ‘agriculture provides employment to 1.3 billion people worldwide, 97 percent of them in developing countries’ (World Bank 2007, 77).

10The ICESCR entered into force in 1976.

11Saragih’s comment echoes the 2002 declaration of social movements that attended the World Food Summit +5 and that went on to found the International Planning Committee for Food Sovereignty. This statement defined food sovereignty as including ‘the true right to food and to produce food, which means that all people have the right to safe, nutritious and culturally appropriate food and to food-producing resources and the ability to sustain themselves and their societies’ (NGO/CSO Forum for Food Sovereignty 2002, italics added).
Table 1. Rights claimed in 2002 and 2009 draft Declarations on Peasants’ Rights.

<table>
<thead>
<tr>
<th>Rights claimed</th>
<th>Relevant international instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Right to a proper living standard 2002</strong></td>
<td>UDHR standard of living, medical care, access to food</td>
</tr>
<tr>
<td>Defining themselves as having the same rights as other people, without</td>
<td>UNMD freedom from hunger, violence, oppression, access to water</td>
</tr>
<tr>
<td>discrimination on the basis of gender, age, religion, culture</td>
<td>ICESCR organize, standard of living, access food, protection of destruction of rights by state, group</td>
</tr>
<tr>
<td>Includes: right to protection, livelihood, food (both as producers and</td>
<td>or person, right to technical support</td>
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<tr>
<td>consumers), health services, sport, electricity, water, communication,</td>
<td>PA livelihood, water, protection</td>
</tr>
<tr>
<td>security, social services, education, housing</td>
<td>ILO-10 health insurance for agricultural laborers</td>
</tr>
<tr>
<td><strong>Right to life and to an adequate standard of living 2009</strong></td>
<td>IRD definition of a people who need to be protected from discrimination</td>
</tr>
<tr>
<td>Affirming gender equality and the right to own land; to produce agricultural</td>
<td>UDCD; CRC; CEDAW</td>
</tr>
<tr>
<td>products, to rear livestock, to hunt and gather, and to fish in their</td>
<td></td>
</tr>
<tr>
<td>territories</td>
<td></td>
</tr>
<tr>
<td><strong>Right to agrarian resources 2002</strong></td>
<td>UDHR property rights, environmental protection</td>
</tr>
<tr>
<td>Right to own and work their land, as well as nonproductive state land; to</td>
<td>UNMD freedom from hunger, access to water</td>
</tr>
<tr>
<td>clean water and to manage and use the water and forest resources from their</td>
<td>UDEHM</td>
</tr>
<tr>
<td>land; to ask for state-support, and right to reject plans for their land and</td>
<td>IRD right to get support of the state, right to protection of economic institutions, right to land,</td>
</tr>
<tr>
<td>resources; to legal protection of land, protection from corporate claims,</td>
<td>role in decision-making process if affects right</td>
</tr>
<tr>
<td>and from environmental pollution</td>
<td>ICESCR pursue economic development, protection of means of subsistence, protection of destruction</td>
</tr>
<tr>
<td><strong>Right to land and territory 2009</strong></td>
<td>of rights by state, group or person, technical support</td>
</tr>
<tr>
<td>Right to own land, including nonproductive state land, and to own the products</td>
<td>UDCD; ILO</td>
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<tr>
<td>of their labor; to fight forced eviction; to state funds for irrigation</td>
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<tr>
<td>technologies; to the access, and community control, of safe water</td>
<td></td>
</tr>
<tr>
<td><strong>Right to seed and agriculture 2002</strong></td>
<td>IRD right to protection of economic institutions, the human and environmental health of future</td>
</tr>
<tr>
<td>Right to determine their seeds, and reject varieties; to determine farming</td>
<td>generations; NERLM to enjoy culture</td>
</tr>
<tr>
<td>farms, right to use and develop local agricultural knowledge and seed</td>
<td>UNMD freedom from hunger, access to water</td>
</tr>
<tr>
<td>varieties</td>
<td>UDEHM</td>
</tr>
<tr>
<td><strong>Right to seed and traditional agricultural knowledge and practice 2009</strong></td>
<td>IRD pursuit economic development, protection of means of subsistence, protection of destruction of</td>
</tr>
<tr>
<td>Right to determine the varieties of seeds, including the right to develop and</td>
<td>rights by state, group or person, technical support</td>
</tr>
<tr>
<td>sell their own varieties; to food sovereignty; to reject plant varieties and</td>
<td>UDCD</td>
</tr>
<tr>
<td>the industrial model of agriculture; to conserve and develop local knowledge</td>
<td>ITPGRFA</td>
</tr>
<tr>
<td>in agricultural, fishing and livestock rearing and the use of relevant;</td>
<td>CEDAW</td>
</tr>
<tr>
<td>facilities to use their own technologies or those guided by the principle of</td>
<td>RC</td>
</tr>
<tr>
<td>protecting human and environmental health</td>
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<tr>
<td>**Right for capital and means of agricultural production and the right to</td>
<td>IRD</td>
</tr>
<tr>
<td>access information and agricultural technology 2002**</td>
<td>ICESCR pursue economic development, protection of means of subsistence</td>
</tr>
</tbody>
</table>

(continued)
Table 1. (Continued).

<table>
<thead>
<tr>
<th>Rights claimed</th>
<th>Relevant international instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right to obtain funds, capital, and balanced information; and to be involved in</td>
<td>UNMD freedom from hunger</td>
</tr>
<tr>
<td>the planning of agriculture; to material and tools of agriculture, including</td>
<td>UDEHM</td>
</tr>
<tr>
<td>irrigation and transportation, and right to choose where to get aid</td>
<td>UDCD</td>
</tr>
<tr>
<td><strong>Right to information and agriculture technology 2009</strong></td>
<td>CEDAW</td>
</tr>
<tr>
<td>Right to obtain impartial and balanced</td>
<td>ITPGRFA</td>
</tr>
<tr>
<td>information about capital, market, policies, prices, technology, and national</td>
<td></td>
</tr>
<tr>
<td>and international policies; to obtain adequate information at the national and</td>
<td></td>
</tr>
<tr>
<td>international levels on the preservation of genetic resources</td>
<td></td>
</tr>
<tr>
<td><strong>Right to means of agricultural production 2009</strong></td>
<td></td>
</tr>
<tr>
<td>Right to obtain funds, credit, tools, water transportation, storing facilities</td>
<td></td>
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<tr>
<td>for agricultural production; to be actively involved in planning the agricultural</td>
<td></td>
</tr>
<tr>
<td>budget</td>
<td></td>
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<tr>
<td>**Right for freedom in determining price and market for agricultural production</td>
<td>NERLM to enjoy culture</td>
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<tr>
<td>2002 to produce and store their agricultural product; to fair markets</td>
<td>UNMD</td>
</tr>
<tr>
<td>where they determine the prices; to fair compensation for labor; the right to</td>
<td>UDEHM</td>
</tr>
<tr>
<td>market products nationally and internationally and to fair inspections</td>
<td>ITPGRFA</td>
</tr>
<tr>
<td>Freedom to determine price and market for agricultural production 2009</td>
<td>ICESCR pursue economic development, protection of means of</td>
</tr>
<tr>
<td>Right to prioritize agricultural production and the satisfaction of the family’s</td>
<td>subsistence, protection of destruction of rights by state, group</td>
</tr>
<tr>
<td>basic needs; to develop community-based commercialization; to foster traditional</td>
<td>or person</td>
</tr>
<tr>
<td>local markets, getting beneficial price for their production and a fair evaluation</td>
<td></td>
</tr>
<tr>
<td>of their products’ quality</td>
<td>IRD right to protection of economic institutions</td>
</tr>
<tr>
<td><strong>Right for protection of agricultural values 2002</strong></td>
<td>UDHR participation in cultural life</td>
</tr>
<tr>
<td>Right to protect, preserve and value culture and to reject interventions that</td>
<td>IRD protection of culture</td>
</tr>
<tr>
<td>threaten culture/ agricultural practices</td>
<td>ICESCR pursue cultural and social development</td>
</tr>
<tr>
<td><strong>Right to the protection of agricultural values 2009</strong></td>
<td>UNMD freedom from hunger</td>
</tr>
<tr>
<td>Right to recognize and protect local culture/ agricultural values; to develop</td>
<td>UDEHM; UDCD</td>
</tr>
<tr>
<td>and preserve local knowledge and to reject interventions that threaten local</td>
<td>NERLM to enjoy culture</td>
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<tr>
<td>agricultural values; to be respected for their spirituality as individuals and</td>
<td></td>
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<td>as peoples</td>
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<tr>
<td><strong>Right for biological diversity 2002</strong></td>
<td>IRD</td>
</tr>
<tr>
<td>Right to protect, conserve, develop, maintain and exchange biological and genetic</td>
<td>ILO-10 protection of means of subsistence, protection of</td>
</tr>
<tr>
<td>diversity; to reject any patents on biological diversity. These rights must be</td>
<td>destruction of rights by state, group or person</td>
</tr>
<tr>
<td>protected by law, and the peasants have the rights to cancel the intellectual</td>
<td></td>
</tr>
<tr>
<td>property rights of their goods and services.</td>
<td>ITPGRFA</td>
</tr>
</tbody>
</table>

(continued)
Table 1. Rights claimed Relevant international instruments

<table>
<thead>
<tr>
<th>Rights claimed</th>
<th>Relevant international instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Right to biological diversity 2009</strong></td>
<td>ILO-10 protection of means of subsistence, protection of destruction of rights by state, group or person</td>
</tr>
<tr>
<td>Right to protect, preserve, develop, maintain,</td>
<td>UNMD freedom from hunger, access to water</td>
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<tr>
<td>conserve and exchange biological and genetic</td>
<td>IRC right to protection of economic institutions</td>
</tr>
<tr>
<td>diversity; to reject any patents on biological</td>
<td>NERLM to enjoy culture</td>
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<tr>
<td>diversity, including intellectual property rights</td>
<td>UDEHM</td>
</tr>
<tr>
<td>of goods, services, resources, knowledge of the</td>
<td>UDCD</td>
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<tr>
<td>local community and certification mechanisms</td>
<td>CAIPJE</td>
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<tr>
<td>transnational corporations establish.</td>
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<td>Local, peasant-run guarantee schemes should be</td>
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<tr>
<td>promoted and protected.</td>
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<tr>
<td><strong>Right for environmental preservation 2002</strong></td>
<td></td>
</tr>
<tr>
<td>Right to a clean and healthy environment that</td>
<td>ILO-10 protection of means of subsistence, protection of destruction of rights by state, group or person</td>
</tr>
<tr>
<td>[peasants] can preserve using local knowledge; to</td>
<td>UNMD freedom from hunger, access to water</td>
</tr>
<tr>
<td>reject agricultural policies based on environmental degradation, and to have lawsuits and get compensation for environmental damage</td>
<td>IRC right to protection of economic institutions</td>
</tr>
<tr>
<td><strong>Right to preserve the environment 2009</strong></td>
<td>NERLM to enjoy culture</td>
</tr>
<tr>
<td>Right to a clean and healthy environment preserved</td>
<td>UDEHM</td>
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<tr>
<td>according to [peasants’] knowledge; to reject all</td>
<td>UDCD</td>
</tr>
<tr>
<td>forms of exploitation that cause environmental</td>
<td>CAIPJE</td>
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<tr>
<td>damage; to sue and claim compensation for</td>
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<tr>
<td>environmental damage; to reparation for ecological</td>
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<td>debt and the historic and current dispossession of</td>
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<tr>
<td>their territories</td>
<td></td>
</tr>
<tr>
<td><strong>Right for freedom to associate 2002</strong></td>
<td>ILO-10 protection of means of subsistence, protection of destruction of rights by state, group or person</td>
</tr>
<tr>
<td>Right to convene, be protected, organize –</td>
<td>UNMD freedom from hunger, access to water</td>
</tr>
<tr>
<td>including economically; to public expression of</td>
<td>IRC right to protection of economic institutions</td>
</tr>
<tr>
<td>culture, religion, literature and art</td>
<td>NERLM to enjoy culture</td>
</tr>
<tr>
<td><strong>Freedom of association, opinion and expression</strong></td>
<td>UDEHM</td>
</tr>
<tr>
<td>and the right to have access to justice 2009**</td>
<td>UDCD</td>
</tr>
<tr>
<td>The right is granted through claims, petitions and</td>
<td>CAIPJE</td>
</tr>
<tr>
<td>mobilizations; right to independent peasants’</td>
<td></td>
</tr>
<tr>
<td>organizations, trade unions, cooperatives; to local customs, languages, culture, religions, literature and art;</td>
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<tr>
<td>Not to be criminalized for their struggles and to</td>
<td></td>
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<tr>
<td>recourse to peaceful direct action; to a fair justice system, with effective and non-discriminatory courts and legal aid</td>
<td></td>
</tr>
</tbody>
</table>

Source: Via Campesina (2009a, 2002), international agreements listed above.

exchange rates, which in turn led to a rapid expansion and liberalization of global food trade (Greider 2000, Helleiner 1994, McMichael 1998). Liberalized trade, especially after the 1995 founding of the World Trade Organization, encouraged highly subsidized commodity producers, mainly in the European Union and the United States, to ‘dump’ inexpensive exports in developing countries, often glutting agricultural markets and ruining farmers’ livelihoods. At the same time, growing ownership concentration among seed, input, machinery and credit suppliers, and in the processing, storage, brokering, and exporting stages of key commodity chains, allowed a handful of giant corporations to garner a rising share of the total value added between the farm gate and the dinner plate (Kneen 2002, Morgan 1980). In poorer countries the 1980s debt crisis, also rooted in part in rising interest rates and oil import bills, brought neoliberal reforms that further devastated small agricultural producers accustomed to guaranteed prices, low-interest loans from public-sector banks and state-sponsored extension services. More recently, the impacts of climate change, growing demand for biofuels and a new wave of land speculation have further exacerbated the already tenuous situation of small-scale agriculturalists in numerous world regions (Bryceson et al. 2000, Kay 2008, IAASTD 2009, Kloppenburg 2010, GRAIN 2008, van der Ploeg 2008).

By the early 1990s, these diverse onslaughts on living standards and livelihoods, as well as new forms of communication, cheaper travel, and the end of the Cold War and of military regimes in Latin America, spurred a wave of transnational advocacy groups and NGOs in addition to and alongside the agrarian movements (e.g., of women, indigenous peoples, ethnic and sexual minorities, environmentalists, human rights advocates, the disabled, and others). Because global governance was expanding its reach and because many pressing health, environmental, social and economic problems transcended national boundaries, these new networks, coalitions and movements became increasingly involved in contesting the direction of the international financial institutions, the World Trade Organization, the G-8 heads of state, and various UN agencies. They also organized their own ‘parallel summits’ (Pianta 2001) and – since 2001 – the annual World (and regional) Social Forums (Whitaker et al. 2006).

The loosely organized global justice movement was, however, divided over the possibilities of engaging with the powerful international governance institutions that were behind the rush to economic liberalization. One segment, which we will call the ‘grassroots wing’, advocated far-reaching, radical reforms of the world economic order, took a rejectionist stance towards participating in economic summits, and asserted the local right to autonomous choice of economic model and control over resources. Rather than demand a seat at the table, or put forward proposals to

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12 In an historic reversal, these reforms, encouraged or imposed by the World Bank and the International Monetary Fund, dismantled the commodities boards and the systems of subsidies for inputs, machinery, fuel, water, and credit that the World Bank had helped to set up in the 1950s and 1960s in order to make capital-intensive agriculture possible in conditions of poverty (Shiva 2001).

13 Several scholars have analyzed distinctions between networks, coalitions and movements (Fox 2005, 2010, Edelman 2005). Because Via Campesina and its allies have characteristics of all three organizational forms, such distinctions are not of central importance here.

14 People’s Global Action, for example, an alliance that lasted from 1998 to 2006, included several Via Campesina member organizations. It characterized itself as having ‘a confrontational attitude, since we do not think that lobbying can have a major impact in such biased and undemocratic organisations, in which transnational capital is the only real
institutions such as the WTO, IMF and World Bank, these movements sought to restrict the scope of these bodies’ jurisdiction and to shut down their meetings. Under movement proposals, water and other essential services were to be excluded from privatization and commodification;\(^{15}\) projects on indigenous traditional lands would require the consent of indigenous peoples; and agriculture was to be kept out of the WTO’s purview (Via Campesina 1999, Rosset 2006). To some degree, all of these positions embraced local autonomy as an alternative to global market competition and transnational corporate structures. These local bastions were repositories for a contest between social models, places where the local, indigenous, self-governing, renewable, organic, and diverse are extensively embraced, and from which they can be defended (Escobar 2001, Nash 2005). This grassroots wing of the global justice movement has also been richly productive of new normative concepts, such as food sovereignty, biopiracy, Creative Commons, and autonomous municipalities, among others.\(^{16}\)

The new transnational agrarian movements of the 1990s, which included Via Campesina, the International Planning Committee for Food Sovereignty, and ROPPA,\(^{17}\) gained considerable visibility as interlocutors with the news media, national governments, international institutions, and other civil society organizations. The most dynamic of these new transnational movements is Via Campesina, founded in Belgium in 1993, which now links some 150 organizations of small- and medium-sized agricultural producers, landless, rural women, indigenous people, and agricultural workers in almost 70 countries in the Americas, Europe, Asia, and Africa (Edelman 2003, Borras 2004, Desmarais 2007, Borras \textit{et al.} 2008). The membership is diverse and includes landless peasants in Brazil, small dairy farmers in Europe, well-off farmers in South India, wheat producers in Canada, and land-poor peasants in Mexico. The main issues of concern to Via Campesina include the liberalization of global agricultural trade; intellectual property and genetically modified organisms; the survival of family farms; sustainable alternatives to industrial agriculture; agrarian reform; the human rights of peasants and peasant activists; and ‘food sovereignty’; which it describes as each country’s right to determine the shape of its own food systems; to protect national and especially

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\(^{15}\)Eight months after the 2000 ‘water war’ in Cochabamaba, Bolivia, organizers of the anti-privatization uprising hosted a gathering of water activists called ‘Water: Globalization, Privatization, and the Search for Alternatives’. The conference’s Cochabamba Declaration put forward a global call for a human right to water, urging that, ‘These rights must be enshrined at all levels of government. In particular, an international treaty must ensure these principles are noncontrovertable’ (Cochabamba Declaration 2000). This demand was incorporated into the 2009 Bolivian Constitution, and encouraged the 2010 UN General Assembly Resolution on the Right to Water and Sanitation.

\(^{16}\)Food sovereignty, advanced by Via Campesina, is discussed below. Biopiracy describes the appropriation of agricultural lifeforms and knowledge for profit (Shiva 1999). Creative Commons is a legal schema created to legally facilitate the use and circulation of creative intellectual property without payment, but according to the wishes of the creator. Autonomous municipalities, proposed and implemented by the Zapatistas and the Mexican indigenous movement, create local forms of governance at the municipal level.

\(^{17}\)ROPPA is Réseau des Organisations Paysannes et des Producteurs Agricoles de l’Afrique de l’Ouest (Network of Farmers and Agricultural Producers’ Organizations of West Africa).
nonindustrial; smallholder production; and to shield domestic markets from the dumping of low-priced agricultural imports (Ishii-Eiteman 2009, Patel 2009). 18

The heterogeneity of the national and sub-national organizations that have joined Via Campesina makes for an internal politics that is complex and sometimes contentious, with different regional and class groupings at times promoting distinct priorities for the movement as a whole (Borras et al. 2008, Martinez-Torres and Rosset 2010). Via Campesina and its component sub-national, national and regional organizations have nonetheless often presented a united face in global civil society gatherings, such as the World Social Forums (Marcuse 2005), and in theatrical protests against large agribusiness corporations, the World Trade Organization, the World Bank and International Monetary Fund (IMF), and G-8 governments.

Via Campesina briefly entered into dialogue with the World Bank over the Bank’s proposals for ‘market-assisted agrarian reform’ (Via Campesina 1999, Edelman 2003, 207), but in general it has been skeptical about, if not hostile toward, the Bank, the IMF, the WTO, and the G-8, and ready to identify them as its enemies (Martínez-Torres and Rosset 2010, 162, Nelson 2002). While this rejectionist position places Via Campesina squarely within the ‘grassroots’ wing of the global justice movement, the organization has nonetheless institutionalized working partnerships with several United Nations agencies, such as the Food and Agriculture Organization (FAO) and the International Fund for Agricultural Development (IFAD) (see below). Via Campesina has also managed to achieve significant and largely favorable coverage in international media. Following the violence outside the 2001 G-8 summit in Genoa, for example, *Newsweek* singled out Via Campesina as one of eight ‘kinder, gentler globalist’ groups behind the anti-G-8 protests (*Newsweek* 2001). In 2008, the London *Guardian* included Via Campesina coordinator and Indonesian peasant leader Henry Saragih in its list of ‘ultimate green heroes’, the ‘50 people who could save the planet’ (*Guardian* 2008).

Much of the political potency of the new transnational civil society of which Via Campesina is a part derives from what Keck and Sikkink (1998, 12–3) famously termed ‘the boomerang pattern’. 19 Essentially, movements that are unable to attain their objectives in domestic politics seek out international allies to intervene in local situations or to pressure governments to modify national standards to conform to international norms. International campaigns against sweatshop labor conditions and for the criminalization of marital rape typify these two strategies. 20 In the case of the Peasants’ Rights Convention campaign, the proponents’ objective is not just to secure compliance with international norms, but to shift the norms themselves. Such normative shifts facilitate external international pressure on governments and affect policymaking by international institutions. The creation of international standards

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18 Via Campesina is always referred to by its Spanish name, which means ‘the peasant way’.
19 Others have variously called it ‘venue shifting’ (Van Rooy 2004, 20) or ‘leap-frogging’ (O’Brien et al. 2000, 61, Howard Hassmann 2005).
20 Anti-sweatshop campaigners have repeatedly invoked international norms while petitioning and pressuring transnational corporations. They sought to convert the latter into (often unwilling or resistant) tools to ensure adherence to global labor standards. On the other hand, the effort to criminalize marital rape won international legitimacy as a requirement of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), in part through the Beijing Women’s Conference. Since then, changes to national laws on marital rape have been demanded through the periodic review process of the Convention, adding to local campaigns for criminalization.
can also encourage the evolution of national norms by providing a readily available template for constitutions and legislation. The advent of struggles that involve shifting venues to global governance bodies thus requires analyzing not only the ‘changing global imaginary of social justice’ (Gledhill 2003, 212) and how claims about universal rights norms emerge, are contested and gain traction (Finnemore and Sikkink 1998, Tsing 2005). It also requires attention to the ways in which transnational advocacy groups and international institutions mutually constitute each other (Howard-Hassmann 2005) and to the limitations of ‘boomerang’ strategies when activists seek to alter trade and financial policies imposed by supra-state bodies, such as the WTO (Edelman 2009, 124–5, Nelson 2002).

**Rights claims by transnational agrarian movements**

Scholars of collective action, social movements and democracy point to ‘the invention and creation of new rights’ (Dagnino 1998, 50) and of whole ‘new categories of rights’ (Archibugi 2008, 21) as key elements in contemporary contentious politics and in the long historical evolution of more inclusive and open societies. Variously referred to as ‘the expansion of the human rights concept’ (Messer 1993, 222) or ‘norms evolution’ (Hertel 2006, 263), this trend accelerated in the early to mid-twentieth century with the first efforts to construct an international human rights regime and then again in the 1990s when new transnational social movements and NGOs sought to broaden existing rights frameworks (Glasius 2006). In the study of social movements and contentious politics, prevailing ‘concepts’ or ‘norms’ are important because they become reference points for rights claims, for conceptualizing entitlement and obligation, and for the ‘invention’ of new rights. Some scholars argue that ‘norms evolution’ occurs in a three-stage sequence or ‘life cycle’ that commences with an ‘emergence’ phase; continues to a tipping point, ‘norms cascade’ or ‘bandwagon’; and ends with the ‘internalization’ of the norm in common practice, legal instruments and institutions (Finnemore and Sikkink 1998, 895).

The specifically human – rights-oriented aspects of Vía Campesina’s global campaign for an International Convention on Peasants’ Rights should be understood in the context of the coalition’s broader attempts at normative shifts. Martínez and Rosset’s (2010) history of Vía Campesina describes an increasing interest in a ‘struggle among models’: changing the economics, technology, and practice of agriculture globally by offering alternatives. ‘Food sovereignty’, for example, is an umbrella term for an alternative agricultural and economic model that Vía Campesina counterposes to chemical-based, industrial agriculture for export (Ishii-Eiteman 2009, Patel 2009, Martínez-Torres and Rosset 2010, 168–70). Vía Campesina’s adoption of a more explicit human rights discourse mirrors a shift in the practice of transnational indigenous, anti-privatization, and environmentalist movements in the same period, some of whom now call for a ‘Universal Declaration of the Rights of Mother Earth’ (World People’s Conference on Climate Change and the Rights of Mother Earth 2010).

The campaign developed in collaboration with two European NGOs, first the Geneva-based Centre Europe—Tiers Monde (CETIM) and later the Heidelberg—based Foodfirst Information and Action Network (FIAN). Its activities have included sending human rights fact—finding missions to more than a dozen countries, the publication of three annual compendiums on ‘peasant rights violations’ (FIAN and Via Campesina 2004, Via Campesina 2005, 2006), and lobbying at the UN General Assembly (Saragih 2009), the UN Human Rights Council (Golay 2009b, 18), and other UN agencies.21

The first draft of the Peasants’ Rights Declaration, published in stilted English and somewhat more polished French and Spanish (Via Campesina 2002), detailed a bundle of rights, many of which were already part of existing UN Conventions (see below). Human rights scholars once distinguished ‘first generation’ civil and political rights, ‘second generation’ socioeconomic and cultural rights, ‘third generation’ development rights, and ‘fourth generation’ indigenous rights (Messer 1993, 222–3, Viljoen 2009, 8–9). Some activists today employ the term ‘new generation’ rights, particularly when referring to demands related to ‘food sovereignty’, ‘ecological debt’,22 and access to information about and participation in international economic decision-making processes. Many of the rights enumerated in the draft Peasants’ Rights Declaration are, however, arguably ‘first’, ‘second’ or ‘third generation’ rights already part of existing international instruments. Among these are the rights of ‘peasant women and men’ to freedom of association and expression, physical integrity, personal security, health, food, and water for consumption and irrigation, as well as freedom from political persecution and from discrimination ‘based on their economic, social and cultural status’ (Via Campesina 2009a, Via Campesina Asia 2009).

Other rights enumerated in the draft Declaration, however, were indicative of an effort to push existing norms beyond their current bounds, such as claims of a ‘right to reject’ intellectual property of crop genetic material or demands for participation in international economic policymaking processes. The authors of the draft Declaration sought to achieve these objectives in part through asserting that peasants, like native peoples, are a vulnerable group, with culturally specific characteristics and practices that deserve international recognition and protection.

Via Campesina’s draft Declaration on Peasants’ Rights also aims implicitly to supersede the old ‘generations’ paradigm for analyzing rights. The ‘generations’ approach mirrors a division that dates to 1966 when differences between the United

21It has also included regional lobbying of ASEAN governments. The annual reports on ‘peasants’ rights violations’ focus largely on countries where Via Campesina has member organizations (e.g. Thailand, the Philippines, Brazil, Honduras, Colombia, Indonesia, South Africa, and India). In a trenchant analysis of peasant resistance in contemporary China, Walker (2008, 479) laments that Via Campesina’s ‘annual reports of “Violations of Peasants’ Human Rights” virtually ignore this area of the world where one in three peasants reside’.

22Ecological debt, according to an Ecuadorian organization in the forefront of the movement, is ‘the debt accumulated by Northern, industrial countries toward Third World countries on account of resource plundering, environmental damages, and the free occupation of environmental space to deposit wastes, such as greenhouse gases, from the industrial countries’. Its mechanisms include ‘the ecologically unequal terms of trade caused by goods being exported without taking into account the social and environmental damages caused by their extraction or production [and] the intellectual appropriation and the use of ancestral knowledge related to seeds, the use of medicinal plants and other knowledge, upon which the biotechnology and the modern agro—industries are based, and for which, we [in the Global South] have to pay royalties’ (Acción Ecológica 2005).
States and Soviet Union led to two separate International Covenants on civil and political rights and on economic, social and cultural rights (Lewis 2007, 119–21). In the post-Cold War period a pronounced contradiction persists between developed-country governments that support (or claim to support) political rights and developing-country governments that prioritize (or claim to prioritize) economic and social rights. Scholars, legal professionals and social movement activists have, however, increasingly moved beyond the ‘generations’ framework, for several reasons. First, it creates a false dichotomy between so-called ‘positive’ and ‘negative’ freedoms (i.e., what a state should and should not do), when both kinds of rights are – in the words of the 1993 Vienna UN Human Rights Conference – ‘interdependent and indivisible’ and potentially entail a range of obligations on the state (Shafir and Brysk 2006, 283, Viljoen 2009, 9). Second, transnational processes of migration and civil society activism increasingly call into question understandings of rights that are contingent on citizenship in a state rather than on an individual’s humanity or membership in a rights-bearing group (Fraser 2003, 91, Shafir and Brysk 2006, 279). Finally, a consensus is emerging (at the rhetorical if not always at the institutional level) within the United Nations and major NGOs such as Amnesty International that peace and security, development and human rights are inextricably linked and that the realization of the Millennium Development Goals in 2015 depends on a coherent and integrated approach that recognizes and strengthens all three of these ‘pillars’ (Domínguez Redondo 2009).

The indigenous rights model and the peasants’ rights campaign

The international process that led to the 2007 Declaration on the Rights of Indigenous Peoples was a path-breaking transformation of the UN human rights framework. Previously, human rights declarations and conventions had been negotiated among state actors, with only ‘consultative’ input from civil society organizations. However, in the lead up to the 2007 Declaration indigenous representatives worked within the drafting process (through an overwhelming presence at the United Nations Working Group on Indigenous Populations, which completed the draft Declaration in 1994, and through a standing indigenous caucus in later stages) and well beyond it, generating new UN institutions and successfully codifying a right to dialogue directly with UN member states (Morgan 2007, Muehlebach 2001). Through elements of the Declaration that concern consultation, as well as through this procedural precedent, indigenous activists advanced the principle that people who are the subject of a rights document are entitled to participate in its framing. The Peasants’ Rights Convention campaign attempts to

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23 The United States signed the latter Covenant in 1977, but has never ratified it; it only ratified the ICCPR in 1992. The Soviet Union signed both accords but opposed the optional protocol of the ICCPR that allowed for international review of citizen complaints.

use this model as a precedent for the participation of affected parties in global governance. At the core of Via Campesina’s adoption of this precedent is the culturalization of peasants spelled out in Article IX and alluded to elsewhere in the draft Declaration: ‘the right to the recognition and protection of their culture and local agriculture values’ (Via Campesina 2009a). In effect, peasants are represented not only as ‘rights holders’, but as the same kind of culture-possessing population that indigenous people are recognized to be within the indigenous rights regime.

Recent human rights scholarship by anthropologists and others has pointed to the growing deployment and reification of ‘culture’ as an argument for group or collective rights, as well as to how universal rights concepts are taken up, reinterpreted and transformed in the context of local struggles (Cowan et al. 2001). Some have noted the irony that just when anthropologists have largely abandoned notions of culture as fixed, homogeneous and bounded, activists have seized upon these same traditional ideas of culture as discursive frames for mobilizing around collective rights claims (Kuper 1999, 1–20, Warren and Jackson 2002, 8–12, Hale 2006). The apparent incompatibility of liberal universalism, on the one hand, and of cultural relativism and later multiculturalism, on the other, has been a central preoccupation of human rights scholarship for decades (Benhabib 2002, Okin 1999, Merry 2006b). This tension is likely to be a key fault line in UN debates over whether to adopt the Peasants’ Rights Declaration. The distinctiveness of peasants as a social, cultural and/or economic category has also been an ongoing discussion in agrarian studies and applied development work (Bryceson et al. 2000, Bernstein and Byres 2001, Silverman 1979, van der Ploeg 2008). This too could complicate the advance of the Peasants’ Rights campaign, since advocates will not only have to explain why existing universal instruments do not adequately guarantee the claimed rights, but also argue for the specificity of the rights bearers (see below).

The draft Peasants’ Rights Declaration generally claims that peasants should have rights similar to those now recognized by the Indigenous Rights Declaration, such as rights to self-organization, and self-governance in their own ‘territories’, and to ‘free, prior, and informed consent’ for projects affecting them. The right to consent is boldly expanded in the draft Peasants’ Rights Declaration into the ‘right to actively participate in policy design, decision making, implementation, and monitoring of any project, program or policy affecting their territories’. It is accompanied by a ‘right to reject’ a large number of outside interventions, policies, and forms of agriculture, including privately held market intelligence, threats to biological diversity, patenting of crop genetic material, and prohibitions on seed saving and exchange, such as the bans on planting or selling farmer-produced or non-certified seeds that now exist in the European Union and many other countries (Kästler 2005, Kloppenburg 2010). Finally, the draft Declaration embraces a ‘right to resist oppression and to resort to peaceful direct action’ on the part of peasants, which is a major extension of the existing right to strike.

**Advancing the peasants’ rights agenda in international institutions**

The 1996 FAO World Food Summit in Rome marked the first, massive incursion of transnational peasant and farmer organizations into the UN policy-making process. Hundreds of agrarian activists from various organizations and world regions attended the summit, though most were only able to secure observer status or participate in the ‘parallel’ civil society forum (McKeon 2009). The Summit
nonetheless set in motion a process of redefining the right to food – one of the central missions of the FAO – from access to adequate staples for consumption to culturally integrated food production.\textsuperscript{25} Emblematic of this systemic shift were the 1999 General Comment No. 12 on implementing the right to adequate food under the Covenant on Economic, Social and Cultural Rights (CESCR 1999); the 2000 appointment of the first UN Special Rapporteur on the Right to Food; the 2002 World Food Summit + 5, which attracted an even larger number of agrarian activists and which, some months after its conclusion, led to strengthened participation of civil society actors in intergovernmental committees and improved access to the FAO Secretariat;\textsuperscript{26} and the formation of an intergovernmental working group for the drafting of voluntary guidelines to assist states in achieving the right to food (Windfuhr 2006). In 2006 the UN’s International Fund for Agricultural Development initiated an ongoing Farmers’ Forum (IFAD 2006). In 2001–2009, the Special Rapporteur sent investigative missions to over a dozen poor and developing countries. In 2009 the FAO’s Committee on Food Security was opened to full civil society participation (Agricoltura Italiana 2009).

In March 2009, Basque farmer activist Paul Nicholson represented Vía Campesina in sessions of the UN Human Rights Council on the global food crisis (Golay 2009b, 18). In April 2009, Via Campesina Coordinator Henry Saragih spoke before the General Assembly, urging it to adopt the Peasants’ Rights Convention (Saragih 2009). In January 2010 the Fourth Special Session of the Advisory Committee of the UN Human Rights Council, meeting in Geneva, heard again from Saragih, who urged the Council to adopt ‘a new legal framework with clear standards to recognize the basic rights of more than 2.2 billion ... peasants in the world’ (Saragih 2010, Via Campesina 2010a). In February 2010 the Advisory Committee submitted its report on ‘discrimination in the context of the right to food’ (UN Human Rights Council 2010). The report, authored by Jean Ziegler (the first Special Rapporteur on the Right to Food), José Bengoa, Chinsung Chung, Latif Hüseynov, and Mona Zulficar, included as an appendix the entire text of the draft Peasants’ Rights Declaration. In March the Geneva Academy of International Humanitarian Law and Human Rights organized a conference titled ‘A New Initiative to Protect the Rights of Peasants’, where Olivier de Schutter, the Special Rapporteur on the Right to Food, declared that the Peasants’ Rights initiative was ‘intertwining’ with the right to food (Via Campesina 2010). Also in March 2010 the Cuban delegation to the Human Rights Council introduced a resolution urging the full Council to adopt the Peasants’ Rights Declaration (Via Campesina 2010).

In essence, the draft Peasants’ Rights Declaration’s perspective on the right to food is being incorporated directly into the UN agenda as a result of years of civil society pressure within the FAO, the UNHRC and other agencies, the very significant presence of peasants among those in need of food, and the approach of the 2015 target date for the Millennium Development Goals. Notably absent from the discussion so far, however, are elements of the draft Peasants’ Rights Declaration that demand rights to conserve and exchange or sell traditional seed varieties, to intervene in markets and set prices, to participate in economic decision-making at the

\textsuperscript{25}This process of redefinition paralleled the emergence of demands for ‘food sovereignty’ and the intensifying critique of technical measures of ‘food security’.
\textsuperscript{26}Edelman’s recorded interviews with Costa Rican, Nicaraguan, Canadian, and Dutch participants in 1996 Rome FAO and 2001 Rome +5 events.
international and national levels, and ‘to reject interventions that can destroy local agricultural values’ (Via Campesina 2009a).

Conclusion: prospects for success and key areas of contention

Would an International Convention on Peasants’ Rights make a difference and, if so, how? International human rights conventions have a ‘dual nature as both instrumental and expressive instruments’ (Hathaway 2002, 1940). On the one hand, they establish legally binding obligations that require signatory states to conform to treaty norms. They also create monitoring and enforcement mechanisms. On the other, they permit countries to express their position on key rights issues – whether genuine or not – to the international community. Not surprisingly, UN member states have generally shown a willingness to pass new nonbinding declarations on diversifying areas of concern, but they have been reticent to agree to legal instruments that limit their sovereign power. As Jack Donnelly (1989, 152) points out, ‘the [further] move to implementation or enforcement … involves a major qualitative jump that most states resist, with considerable vigor when necessary, and usually with success’.

Scholars and activists are divided about the extent to which and how international human rights agreements contribute to improving conditions. While the relevant debates are largely beyond the scope of this article, advocates of diverse approaches – and especially those influenced by the new legal realism – concur that the expressive aspects of human rights law may have their own practical effects and that scholars need to consider how human rights are ‘vernacularized’ in ‘local social settings’ (Merry 2006b, 38, Moyn 2010, 218–9) and how ‘ideas and the documents that express them are… disseminated and appropriated by social movements and political elites’ (Merry 2006a, 977, Garth 2006, Zerilli 2010).27 Scholars working in the tradition of the new legal realism, like the older realists in international relations, are skeptical about the direct mandatory effect of laws and argue that laws’ effects are mediated by social practices and political priorities. In analyzing the social processes that surround legal norms, the new legal realism (unlike the older realism) tends to accord considerable importance to institutions other than state regimes, including global governance organizations and the associated bodies of international law and regulation. New legal realist studies of human rights have, however, found meaningful effects of even non-mandatory norms when movements and governments engage in efforts to spread awareness of new norms, or use shame, monitoring, pressure tactics, and ‘social pressure to appear civilized’ to encourage compliance (Merry 1992, 2006a, 101).

Nonbinding legal instruments are also the domain of soft law scholarship. This field examines the wide variety of nonbinding guidelines, norms, and protocols that proliferate at the national and international level. Such norms are particularly influential in institutional contexts, where they can – and often do – serve as templates for national policies, standards of evaluation, and the basis of expected behavior. Non-treaty agreements may also contribute to confidence-building, to the creation of a preliminary regime that can develop further in stages, and to achieving

27Hathaway (2002) provides an able summary of different theoretical approaches, as well as a cross-national empirical test of the effectiveness of five international and five regional human rights treaties.
consensus and avoiding problems with domestic ratification processes and recalcitrant states (Hillgenberg 1999, 501). At the international level, beyond states and binding law, there is now a ‘burgeoning of sites from which actors and institutions practice and perceive normativity’ (Zerilli 2010, 7). Within the UN system, this diversity in norms production has prompted the UN International Law Commission to urge different UN ‘subsystems’ to act consistently to maintain effectiveness. In the view of the UN Permanent Forum on Indigenous Issues, this requires UN agencies to structure their work in harmony with UN human rights declarations (PFII 2010, 10).

Could the United Nations adopt an International Convention on Peasants’ Rights? While the issue of peasants’ rights has been put on the table at the United Nations, it remains only a proposal. The path from proposal to Declaration and on to either a Convention and/or substantive change is fraught with difficulties. The broad similarities between their rights-making processes make the trajectory of the Indigenous Rights Declaration a useful point of comparison for considering the prospects for success of a Peasants’ Rights Convention. Indigenous peoples began their intervention in UN rights-making processes as an outsider group, whose historical claims were in direct conflict with many existing nation-states and whose future existence as distinct communities was not broadly accepted by reigning ideologies. While agriculture is an inevitable part of human existence, a variety of ideological positions view peasant communities built around traditional or small-scale agricultural practices as something of a relic (Handy 2009, van der Ploeg 2008, 2). Peasants in Vía Campesina see themselves as having, like indigenous peoples, an interest in asserting their right to continued self-defined existence and in inserting a ‘peasant perspective’ into planning of the human future.

The experience of indigenous peoples demonstrates that transforming universal rights norms is an uphill process and one which nation-states are willing to devote substantial resources to opposing, or at least complicating.28 Collective rights were a particular point of contention in the indigenous rights-making process. The term ‘peoples’, with its connotations of cultural distinctiveness and connection to the right to self-determination in international law, was bracketed in negotiations of the Indigenous Declaration for over a decade (Davis 2008, 463). Western states also deployed a liberal argument against collective rights, arguing that only individuals can hold certain rights, and that all collective arrangements were to be worked out through electoral and legislative processes, rather than allowing some communities rights to greater self-determination. Indeed, the US, Canada, Australia and New Zealand, all countries with substantial native populations, were the only member states to vote against the 2007 UN Declaration on the Rights of Indigenous Peoples. All four in practice accord at least some sovereign (or quasi-sovereign) rights to substantial indigenous minorities, but they were also clearly concerned about the impact on their sovereign power of a comprehensive rights regime. The United States Mission to the United Nations, in explaining its negative vote, maintained that the declaration’s ‘failure to define the phrase “indigenous peoples”’ is ‘deilitating to the effective application and implementation of the declaration’ and that ‘[t]his obvious shortcoming will subject application of the declaration to endless debate, especially if entities not properly entitled to such status seek to enjoy the special benefits and

28 After 10 years of negotiating a text introduced by indigenous peoples in 1995, just two of 45 articles had been adopted (Cooper 2005).
rights contained in the declaration’ (quoted in Anaya and Wiessner 2007). Whatever the merits of these arguments, one can reasonably expect them to be deployed again with respect to substantial portions of the Peasants’ Rights Declaration, which at best will make its drafting and proclamation an extended endeavor.

One alternative scenario for a Peasants’ Rights Convention would be that a committed minority of states may embrace it, as was the case with the Migrant Workers and Rural Workers conventions mentioned above. This could also result in regional groupings or ideological blocs, such as the Union of South American Nations (UNASUR) or the Venezuelan-led Bolivarian Alliance for the Americas (ALBA), developing a peasants’ rights framework. The Venezuelan government’s support for other Via Campesina efforts, such as the peasant-directed Institute of Agro-Ecology that opened in the state of Barinas in 2006, is one indication that such a development is within the realm of possibility. The 2010 Cuban motion to have the UN Human Rights Council adopt the Peasants’ Rights Declaration (mentioned above) is another (Via Campesina 2010). In 2010 Ecuador, another ALBA member, was the first country to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will allow individuals and groups within the country to seek UN intervention if these rights are violated (Amnesty International USA 2010).

At least two other issues are likely to be major points of contention: the right to land, and the right of peasant communities to reject a range of practices. Land reform and associated property rights have been among the most contentious issues in international human rights law, around which no global consensus exists. While the issue of agrarian reform had largely dropped off the agenda of international development institutions in the 1980s, by the mid 1990s peasant and farmer organizations succeeded in reintroducing it as a policy priority. Land reform enjoys broad support in sub-Saharan Africa and as an element of responsible governance in Latin America. Nonetheless, the new attention to agrarian reform has also involved a ‘struggle between models’, as proponents of state-led redistributive reforms have squared off against the World Bank and its programs of ‘market-assisted’ agrarian reform (Barros et al. 2003, Deininger 2003, Lahiff et al. 2007, Rosset et al. 2006). In advancing the peasants’ rights campaign, Via Campesina-affiliated movements in countries such as India and South Korea may be capable of the kind of mobilizations that secured Latin American governments’ ratification of ILO Convention 169. National land policies are, however, extremely varied within and across regions, and existing regional human rights conventions differ extensively on the topic. Specific rights in the draft Declaration to both use and own ‘non-productive state lands’ and to security of tenure are likely to be highly controversial. Although a vague consensus may emerge around ‘the right to benefit from land

29ALBA is the Alianza Bolivariana para los Pueblos de Nuestra América, an alliance of populist and left-leaning governments in Venezuela, Bolivia, Cuba, Nicaragua, Ecuador and various small Caribbean countries. In 2005 the Venezuelan government signed a technical cooperation agreement with Via Campesina to create an Institute of Agro-Ecology, coordinated by Latin American Via Campesina member organizations. The Institute enrolled its first class of 250 students in 2006.

reform’, the draft’s blanket ban on latifundia or large, unproductive properties will surely draw objections.

Transnational agrarian movements have advanced a critique of a number of economic and technological systems they see as being imposed on the constituencies they represent, including monocrop production for export, genetically engineered seeds, chemical fertilizer-dependent production, and patenting of crop genetic material and other agricultural knowledge. The proposed Declaration addresses these concerns through the repeated use of the term ‘the right to reject’, a right that would be exercised at the community (or perhaps regional or national) level. Conceptually, this right rests on the political right of peasant communities to direct their own affairs and on the integrity of peasant societies, in which the cultural, social, technological, and economic domains are perceived as interlinked. Or, as the draft Peasants’ Rights Declaration echoes the Indigenous Rights Declaration, ‘they freely determine their political status and freely pursue their economic, social and cultural development, having the right to autonomy or self-government in matters relating to their internal and local affairs’ (Via Campesina 2009a, 5). While the ‘right to reject’ might appear to be a novel concept in international law, it corresponds almost exactly to ‘the right to free, prior, and informed consent’ in the 2007 Indigenous Rights Declaration. The Peasants’ Rights Declaration would extend to more than a billion additional human beings in the world’s peasant communities the potential to assert this radical claim of local autonomy.

Even if the United Nations were to approve not only a Declaration, but a Peasants’ Rights Convention, there would no doubt be significant obstacles before its provisions could become legal obligations. Signatory states would have to ratify the Convention according to the rules of their domestic political systems and, in some cases, enact enabling legislation, both of which are frequently contentious and prolonged processes. At the time of signing or ratifying a convention, states also have the right to submit reservations or interpretative statements of understanding that indicate their views about the applicability of particular provisions. The ability to put forward reservations assures that more states are likely to accept a treaty, but it may also eviscerate key protections.31 Finally, human rights conventions typically contain ‘derogation’ provisions that permit states to suspend their obligations under international law in emergency situations.32 Such emergency circumstances, when states often suspend domestic constitutional guarantees as well, are typically when the rights of peasants (and others) are in greatest peril.

While the effort to win a Peasants’ Rights Convention may be long and arduous, we anticipate a number of in-process benefits to transnational agrarian movements along the way. First, the spaces in international governance carved out by these movements may act as points of visibility and pressure on governmental and intergovernmental institutions, places where ‘peasants’ rights violations’ are discussed alongside a Peasants’ Rights Convention. Second a number of forms of

31France, for example, signed the ICCPR but nonetheless asserted that the article protecting the rights of ethnic, religious and linguistic minorities to ‘their own culture . . . religion, or . . . language’ contradicted the French Constitution’s guarantee of ‘equality of all citizens before the law, without distinction of origin, race or religion’ (Burchill 2008, 59).

32The UK lodged derogations to its obligations under the ICCPR and the European Human Rights Court following the 9/11 terrorist attacks on the US. It argued that it now faced a singular security threat that required suspending basic rights for individuals suspected of terrorist involvement (Burchill 2008, 62–3).
leverage come with the adoption of a Declaration, even though such a document is technically nonbinding. Third, the elaboration of a draft rights document facilitates the legitimacy, and local government recognition, of such rights even prior to winning a United Nations imprimatur.

Despite the challenges involved in pushing forward a Peasants’ Rights Convention, there are also a number of favorable elements in the international political environment. First and foremost is the above-mentioned support of elements of the UN, and particularly the FAO, the IFAD and the UNHRC, for food security and the right to food. Second, peasants have inserted their issues into discussion of the Millennium Development Goals, a broadly supported international initiative that includes the objective of reducing hunger by one half by 2015. Peasant advocacy organizations have utilized one salient fact in connecting their agenda to this hunger reduction goal. In the words of Olivier de Schutter, the UN Special Rapporteur on the Right to Food,

80 per cent of hungry people live in rural areas and 50 per cent are small-scale farmholders, and ... these people are especially vulnerable to food insecurity, given the increasing cost of inputs and the fall in farm incomes. (United Nations 2008, 4)

With this recognition, the entire agenda of peasant movements becomes relevant to the international commitment to eradicating hunger, including the following concerns, again summarized by the UN Special Rapporteur:

... that access to land, water, seeds and other natural resources is an increasing challenge for poor producers; that sustainable and gender-sensitive agricultural policies are important tools for promoting land and agrarian reform, rural credit and insurance, technical assistance and other associated measures to achieve food security and rural development; and that support by States for small farmers, fishing communities and local enterprises is a key element for food security and the provision of the right to food. (United Nations 2008, 4)

Third and finally, a series of internationally recognized crises – the food crisis beginning in 2007, the global financial crisis beginning 2008, and the ecological crisis as highlighted by the 2009 climate change negotiations – all represent arenas in which Via Campesina and its allies can push forward their ‘struggle among models’. The deeper and wider hunger that came with the first two crises has called into question the practical viability for feeding the world of globalized, export-oriented industrial agriculture. Numerous critics have also found that partial fault in the food crisis belongs to large-scale biofuel production, which increasingly competes with food crops for arable land (Via Campesina 2009, White and Dasgupta 2010). Meanwhile, Via Campesina argues that small-scale agriculture offers a superior form of carbon sequestration by conserving and enriching soils and preventing agriculture-driven deforestation (Via Campesina 2009b).

While the Peasants’ Rights Convention campaign has advanced within several UN agencies, it has also faced a number of major stumbling blocks. The launch of the campaign in 2002 occurred at an unpropitious moment, in the aftermath of the 9–11 terrorist attacks, when leading specialists argued that ‘the human rights era’ might be ending (Ignatieff 2002). The UN human rights regime has long included social and economic rights. The expansion of such rights or of the classes of rights holders, however, faces daunting obstacles in an age when the hegemonic
conceptions of ‘rights’ within the most powerful UN member states are still largely limited to narrow notions of individual expression and the ‘rights’ of economic actors in the market (Glasius 2006, Lewis 2007). An additional difficulty is that ‘exotic’ Indians preserving a ‘traditional culture’ seem more worthy of support than ‘aculturated’ people’ (Gledhill 2003, 215). ‘Peasantness’ has always been better conceived as a political claim than as an analytical category (Edelman 1999), but to make such a politicized, protean grouping a subject of an international convention requires not only persuasion and effective framing, but, eventually, legal clarity based on rigorous classificatory taxonomies (Benhabib 2002, 18). Furthermore, these difficulties in expanding norms about rights and in establishing the case for ‘peasants’ as a legally defined cultural group of rights bearers are part of a broader problem of making peasant voices heard in societies where thousands are abandoning the countryside every day, where in many regions peasants are viewed skeptically as a result of their participation in predatory resource wars (Buïjtenhuijs 2000, Renner 2002), and where powerful elites and policymakers no longer view agriculture as the motor force of economic development (Edelman 2008, Handy 2009). Despite these very considerable barriers, proponents of the International Convention on the Rights of Peasants have recently made notable advances. It remains to be seen how they will strategize about these obstacles, in addition to how they understand and implement the advances already obtained within the international human rights regime.

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