The Rise of New Rights for Peasants. From reliance on NGO intermediaries to direct representation.
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Abstract (150 words)

The UN Declaration on the Rights of Peasants and other people working in rural areas, adopted by the Human Rights Council in September 2018, seeks to recognize new human rights to peasants and other people working in rural areas. The recognition of these rights (such as the right to land, seeds or biodiversity) in international law responds to a normative gap identified by the affected themselves and contributes to the project of ‘decolonising’ human rights. This international law-making process constitutes an important innovation in that it was requested by and developed with the active involvement of La Via Campesina activists –and other transnational movements representing other categories of rural food producers—who have positioned themselves as ‘law makers’. In this paper, I argue that a commitment to ‘human rights from below’ must account for and support the direct engagement, in international law-making, of transnational social movements representing the affected and speaking on their own behalf.

Keywords: La Via Campesina; peasant; food sovereignty; human rights; NGOs; social movements.

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Title: The Rise of New Rights for Peasants. From reliance on NGO intermediaries to direct representation.

Peasants, agricultural workers, landless, fisherfolk, shepherds, pastoralists and Indigenous Peoples have worked the land and fed humanity for millennia. Yet, according to the United Nations (UN), people living and working in rural areas account for 70% of the world's poor, with women and girls representing 60% of those affected by chronic hunger and malnutrition. More than ever, rural communities are threatened by a predatory food and economic system. They see their rights violated and have no access to justice.

United to defend food sovereignty, peasant organizations gathered in the transnational agrarian movement La Via Campesina (LVC) turned to the UN in the late 2000s to demand a new international legal instrument recognizing their rights. The UN Human Rights Council (HRC) responded to this call in 2012 with the creation of an open-ended intergovernmental working group (OEIWG) tasked with negotiating a UN Declaration on the Rights of Peasants and others working in rural areas (hereafter UNDROP). Six years later, in September 2018, the HRC adopted the UNDROP by majority. The global food crisis of 2007-08 prompted the HRC to take action. It had brought attention to the challenges facing the rural world and provided an opportunity for peasant movements

3 This means that all UN Member and Observer States, intergovernmental organizations and non-governmental organizations with ECOSOC consultative status may attend public meetings of the working group.
4 With 3 votes against (Australia, Hungary and the United Kingdom), 11 abstentions (incl. Germany, Brazil and Spain) and 33 votes in favour (incl. Switzerland, Middle-East and North African, Latin American and African States).
to highlight the contributions of small-scale farmers to global food security and adaptation to climate change.\(^5\)

The UN Declaration on the Rights of Peasants, the negotiation of which I have studied and supported in various capacities\(^6\), recognizes new human rights to peasants and other people working in rural areas, extending the protection of human rights to a new social group.\(^7\) At the heart of the draft Declaration are the right to land and other natural resources, the right to seeds, the right to biodiversity, the right to a decent income and livelihood as well as the means of production, and the right to food sovereignty. The recognition of these rights in international law contributes to the project of ‘decolonising’ human rights\(^8\) by responding to a normative gap identified by the affected themselves and recognizing new rights that are framed as collective human rights.

The process of elaboration of this new international legal instrument constitutes an important innovation in that it was initiated, framed and requested by the transnational social movement La Via Campesina (LVC). LVC represents 200 million peasant farmers across 73 countries (through more than 164 organizations) and is well known for its 20 years of struggles against trade liberalization and the World Trade Organization (WTO), Genetically Modified Organisms (GMOs) and land grabbing. The draft Declaration which has served as basis for discussion at the HRC was developed by LVC activists, who have positioned themselves as ‘law makers’.\(^9\) International law-making processes increasingly involve consulting a diversity of non-state actors, from transnational corporations to non-governmental organizations (NGOs).\(^10\) However, the direct involvement of social movements in international law-making is rare\(^11\) and the emblematic case of the UN Declaration on the Rights of Indigenous Peoples remains a unique example of rights-holders participating significantly in the design and negotiation of an international legal instrument. It is certainly unusual practice at the HRC where standard-setting remains dominated by states.\(^12\) It is also ill-studied and, as I show in this paper, unaccounted for in the frameworks that scholars have developed to analyse the participation of the ‘affected’\(^13\) in human rights development, elaboration and interpretation.

This paper is structured as follows. In the first section, I set the stage by providing a short summary of how peasant movements framed rights-based claims in the late 1990s, in response to the introduction of neoliberal policies in food and agriculture. This led to the drafting of a number of


\(^6\) Notably as scholar-activist and Senior Research Fellow (2016-) at the Centre for Agroecology, Water and Resilience at Coventry University (UK), invited expert to the Open-Ended Intergovernmental Working Group on the Rights of Peasants (2017), consultant for the UN Office of the High Commissioner for Human Rights (2017), 3-month staff at the UN Office of the High Commissioner for Human Rights (2016), PhD student and Senior Advisor to the UN Special Rapporteur on the right to food (2008-2014) and member of Fian International (since 2003).

\(^7\) C. Bob, The International Struggle for New Human Rights (University of Pennsylvania Press, 2010).


\(^11\) Tsutsui et al. convincingly argue that tensions between civil society and state actors have driven much of the development of human rights. They highlight how diverse CSOs have had a direct impact on the drafting or elaboration of key human rights instruments such as CERD, CEDAW or the Optional Protocol to the ICCPR. The authors, however, do not operate a strict distinction between social movements and NGOs. See Tsutsui, Whittington, and Lim. ‘International Human Rights Law and Social Movements: States’ Resistance and Civil Society’s Insistence’ (2012) 8 (1) Annual Review of Law and Social Science, pp. 367–96.


Charters or Declarations in which they compiled their demands. In the second section, I explore how La Via Campesina (LVC) activists succeeded in putting their claims on the international agenda in the late 2000s. To this end, in the third section, I discuss the framework designed by Clifford Bob to study the emergence of new human rights, in dialogue with the framework elaborated by Koen De Feyter and Gaby Oré Aguilar to study the local relevance of human rights. Although these frameworks have distinct purposes, they are similar in their assumption that local disempowered ‘communities’ or groups depend on local, national and international NGOs – described as intermediaries or gatekeepers – to attract international attention onto their claims. In contrast, I show in the fourth section that LVC played a central role in not only framing their rights-based claims but establishing the strategic alliances it required with states (as well as with small NGOs and human rights experts) to get the attention of the HRC. La Via Campesina did not entirely bypass gatekeepers but worked with them on its own terms. It also demonstrated its ability to engage directly with states in the political and technical process of negotiating new global norms. In the conclusion, I argue that a commitment to human rights ‘from below’\(^\text{14}\) must account for and support the direct engagement, in international law-making, of transnational social movements representing the affected and speaking on their own behalf.

**The creation of new human rights from below**

The new rights contained in the UN Declaration on the Rights of Peasants and other people working in rural areas find their roots in local peasant struggles. Peasants have framed these rights in response to the new threats they experienced in the last decades, including agricultural trade liberalization, transnational corporate power, the commoditization and privatization of land and natural resources and the development of intellectual property rights on seeds.

The initiative to draft a declaration was first developed by a national peasant union in Indonesia, Serikat Petani Indonesia (SPI), a La Via Campesina (LVC) member organization.\(^\text{15}\) In the late 1990s, as part of a participatory research action project conducted by the International Institute for Environment and Development (IIED),\(^\text{16}\) a Peasant Rights’ Charter was elaborated through village workshops. Initially conceived of as a tool to oppose the ‘green revolution’, the Charter recognized 61 rights to ‘peasants and their families, personally or as group’ in the following eight areas: livelihood, resource control (land, biological diversity), production (including technology choices), consumption (including what to produce), marketing (market access, quality protection and property rights), political and social arenas, reproduction (including both human reproduction and biodiversity) and freedom of expression (language, culture, religion and arts). The 1999 Charter contained a short definition of peasants as rights-holders and envisioned that these rights would be both achieved by peasants themselves and implemented by the state and/or national/international organizations.

In the early 2000s, the farmer organization SPI initiated discussions about peasants’ rights within the South East Asian and East Asian region. At a regional conference in 2002, members of LVC in the region adopted a ‘Declaration about the protection of the peasant right’, which included a preamble\(^\text{17}\) and 10 main articles: 1) right to life and proper living standard 2) right to agrarian resources 3) right to seeds, 4) right to capital and means of agricultural production, 5) right to access to information and agricultural technology, 6) right to freedom in determining price and market for agricultural production, 7) right to protection of agricultural values, 8) right to biological diversity, 9) right to environmental preservation, and 10) right to freedom of association.


\(^{15}\) H. Purwanto, ‘Local To Global; How Serikat Petani Indonesia Has Accelerated The Movement For Agrarian Reform’, in *La Via Campesina’s Open Book: Celebrating 20 Years of Struggle and Hope* (Via Campesina, 2013).

\(^{16}\) M. Fakih, T. Rahardjo, & M. Pimbert, ‘Community Integrated Pest Management in Indonesia. Institutionalising Participation and People Centred Approaches’ (2003). Published by IIED.

\(^{17}\) The 2002 Declaration recognized 76 different rights to ‘peasant men and women and their family’, no longer alluding to the role of states in implementing these rights nor offering a definition of peasants as rights-holders.
In 2008, La Via Campesina adopted a revised version of this Declaration, after consulting with other regions. The same year, the movement launched a Global Campaign for a Declaration of Peasant Rights at LVC’s fifth international conference in Maputo, and organized an international conference on the Rights of Peasants in Jakarta. The 2008 Declaration entitled ‘Declaration of Rights of Peasants – Women and Men’, included a definition of peasants as rights-holders in article 1, and recognized 84 rights grouped in 12 articles. The 2008 Declaration identified neoliberal policies of the International Monetary Fund (IMF) and the WTO, structural adjustment programs, free trade agreements and transnational corporations as responsible for the increase in violations of peasants’ rights and blamed the ‘capitalist logic of accumulation’ for dismantling peasant agriculture. It contained two references to food sovereignty and 7 references to the collective nature of the rights of peasants. The text recognizes these rights to peasants ‘individually and collectively’. On 6 April 2009, Henry Saragih from Indonesia, then Secretary General of La Via Campesina, presented LVC’s Declaration on the Rights of Peasants to the UN General Assembly as a response to the global food crisis.

Getting Peasants’ Rights on the International Agenda

In 2012, seizing the ‘legal opportunity’ that the global food crisis had opened up, LVC succeeded in getting the issue of the rights of peasants on the HRC agenda. This was made possible through a number of strategic alliances that LVC had established in the previous decade with right to food experts – including the UN Special Rapporteur on the right to food, Olivier De Schutter, and his predecessor Jean Ziegler, then sitting on the Advisory Committee to the HRC, and Ziegler’s former Special Advisor,

18 It is available at: https://viacampesina.net/downloads/PDF/EN-3.pdf (website accessed 26 February 2018)
20 These 12 articles were: 2) rights of peasants, ‘as a collective or as individuals’, to all human rights and fundamental freedoms recognized in the Universal Declaration of Human Rights and HRRL, including non-discrimination and participation in decision-making, 3) right to life and adequate standard of living, 4) right to land and territory, 5) right to seeds and traditional agricultural knowledge and practice, 6) right to means of agricultural production, 7) right to information and agricultural technology, 8) right to determine price and market for agricultural production, 9) right to protection of agricultural values, 10) right to biological diversity, 11) right to preserve the environment, 12) freedom of association, opinion and expression, and 13) right to access to justice.
21 The 2009 Declaration included a reference to the need to include state obligations and monitoring mechanisms in the text as well as to eventually turn the Declaration into a legally-binding Convention.
22 The first reference to food sovereignty was contained in in article v.9, which read: ‘Peasants have the right to food sovereignty’, and the second in article viii.9, which read: ‘Peasants (women and men) have the right to develop community-based commercialization systems in order to guarantee food sovereignty’.
23 An additional reference to collective rights was included in article 9, which recognized the ‘right of peasants to be respected for their spirituality’, ‘as individuals and as peoples.
26 On 22 May 2008, the UN Special Rapporteur on the right to food called for a special session of the HRC to discuss ‘the negative impacts on the realization of the right to food of the worsening of the world food crisis, caused inter alia by soaring food prices’. This led to the adoption of Resolution 10/12 of the HRC, in the framework of which the Advisory Committee to the HRC contributed two studies, one on the right to food and one on the advancement of the rights of peasants (see below).
27 The Advisory Committee to the HRC played a central role in initiating a formal process for discussing the rights of peasants within the HRC, using the right to food as a strategic entry point for discussing the discriminations faced by small-holder farmers. The Advisory Committee contributed two studies that provided background to the future work of the OEIWG tasked with negotiating a UN Declaration on the Rights of Peasants: a 2011 study on discrimination in the context of the right to food (A/HRC/16/40) which identified people working in rural areas...
Christophe Golay, an academic based at the Geneva Academy of International Humanitarian Law and Human Rights – as well as small international NGOs – mainly the human rights organization FIAN International and the small progressive think-thank Centre Europe Tiers Monde-CETIM. With their support, LVC approached the Permanent Representation of Bolivia to the HRC and convinced the then Ambassador Angelica Navarro of the importance and legitimacy of their claims. Bolivia agreed to sponsor resolution 21/19 which, on 11 October 2012, established the open-ended intergovernmental working group (OEIGWG) tasked with ‘negotiating, finalizing and submitting to the Human Rights Council a draft United Nations declaration on the rights of peasants and other people working in rural areas’.

**Analysing human rights from below**

The rise of new rights is complex, contingent and contentious. In an co-edited volume called *The international struggle for new human rights*, Clifford Bob analyses a number of efforts by several groups in the last decades to demand the recognition of new rights at the international level, with a view to understand reasons for success or failure and draw lessons learned. The book covers a large variety of groups, including children born of wartime rape, dalits, LGBTIQ people, people with HIV/AIDS, people with disabilities, and women and girls affected by genital mutilation. The book argues that, although some groups succeed, a great number of groups actually fail in even getting the international human rights movement to endorse their claims as human rights issues (let alone UN bodies). The main reason for this is that the big human rights organizations that dominate the human rights movement (such as Amnesty International and Human Rights Watch) operate as ‘gatekeepers’, deciding what counts as legitimate human rights claims. Among the suggested reasons that may lead these organizations to turn down some claims are concerns associated with moving beyond the organization’s areas of expertise or explicit mandate, with potential negative impacts in terms of reputation, funding or membership. In addition, human rights advocates have expressed fears that the ‘proliferation’ of new rights might threaten the significance and value of existing human rights. It should be added that these big human rights organizations have focused almost exclusively on civil and political rights, at the expense of economic, social and cultural rights (the category in which most of the new rights of peasants would fall).

The book provides a useful 4-step framework to analyse the creation of new human rights by various ‘claimants’: 1) politicized groups frame long-felt grievances as normative human rights claims, 2) they place these claims on the international agenda by convincing ‘gatekeepers’ in major human

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among the people most vulnerable to hunger and malnutrition, and suffering from multiple forms of discrimination; a 2012 study on the advancement of the rights of peasants and other people working in rural areas (A/HRC/19/75) which recommended the HRC create a new special procedure (e.g a UN Special Rapporteur) to improve the protection of the rights of peasants and develop a new international human rights instrument on the rights of peasants and other people working in rural areas. The 2012 study already contained the La Via Campesina Declaration as an annex, which was a strategic move to give the Declaration visibility and legitimacy.

28 FIAN and La Via Campesina jointly launched a Global Campaign for Agrarian Reform in 1999. Between 2004 and 2006, and in the framework of that campaign, FIAN helped LVC document cases of human rights abuses, mostly related to access to land. This led to the joint publications of three reports on the violations of peasants’ human rights, in 2004, 2005 and 2006, which FIAN brought to the attention of the UN Commission on Human Rights (now the Council).

29 The Geneva-based CETIM has a history of logistically supporting La Via Campesina’s International Working Committee on Human Rights. In the early 2000s, CETIM helped organize the meetings of LVC’s Working Committee in parallel with the relevant sessions of the UN Human Rights Commission. As early as 2001, in a joint statement with CETIM, La Via Campesina had requested that the then UN Human Rights Commission ‘formulate and enact’ a Declaration on the Rights of Peasants.

30 For a detailed historical analysis of the interactions of these various actors with various bodies of the HRC, including the Advisory Committee, see A. Vandenbogaerde, ‘Localizing the Human Rights Council: A case study of the Declaration on the Rights of Peasants’ (2017) 16(2) Journal of Human Rights, 220–41.


rights organizations to accept them, 3) states and international bodies, under the pressure of gatekeepers and aggrieved groups, accept the new norms, and 4) national institutions implement the norms.\(^{33}\) I have discussed step 1—human rights framing by food sovereignty activists—in detail in my book *Human Rights and the Food Sovereignty Movement: Reclaiming Control*,\(^{34}\) which explores how La Via Campesina and food sovereignty activists are contributing to the emergence of an alternative conception of human rights, that is less individualistic, anthropocentric, Western and liberal, and more collective, cosmopolitan and multi-cultural.\(^{35}\) In this paper, I focus on step 2 (connecting to international NGOs), with a view to shed light on some under-explored aspects of Bob’s framework.

Bob’s framework analyses the emergence of new human rights as determined by a number of hierarchical relations of power between local disempowered ‘communities’ or groups (who frame human rights claims), local NGOs (to which they need to turn for support), and national and international NGOs (who have the responsibility and networks needed to attract global attention to the human rights issue at stake). Step 2 of this framework looks at how claimants link up with gatekeepers, which are defined as ‘entities at the core of the human rights movement, whose support for a claim can boost it substantially’.\(^{36}\) Gatekeepers typically hold the best staffs and largest budgets. In this framework, a handful of NGOs as well as ‘human rights intellectuals’ play the key role of ‘certifying new rights’.\(^{37}\) Claimants are dependent on the benevolent intervention of local NGOs, supportive lawyers and international human rights organizations to get their claims on the international agenda.

It is interesting to note that in their Localizing Human Rights framework, Koen De Feyter and Gaby Oré Aguilar develop a similar hypothesis. Their research explores how human rights can become relevant to the most excluded individuals and communities (what they call the ‘local relevance of human rights’), and how these communities can participate in the development, elaboration and interpretation of human rights. Their methodological framework considers the interactions between local communities on the one hand, and a network of human rights actors on the other. They argue that cooperation between community-based organizations, local human rights NGOs, international NGOs and allies in governmental and intergovernmental institutions is critical to the bottom-up approach to building human rights.\(^{38}\) Acknowledging that local communities’ views and interests can easily be dismissed or distorted in a setup that involves so many intermediaries, they also point to the importance of addressing issues of representation and of trying to ensure that ‘the human rights experiences of communities set the agenda’.\(^{39}\) Their framework builds on the research conducted by anthropologist Sally Engle-Merry on the role of NGO intermediaries located between ‘local activism’ and transnational human rights. Engle-Merry shows that NGO intermediaries do not only bring resources and networks. They also act as ‘knowledge brokers’ who ‘translate’ local community claims into claims that can be received by a broader public (and/or the state).\(^{40}\)

**From reliance on NGO intermediaries to direct representation**

The case of the UN Declaration on the Rights of Peasants presents a radically distinct trajectory from the one depicted in the frameworks discussed above. The Declaration was developed, pushed, and

\(^{33}\) Ibid.


directly brought to the international level by the transnational agrarian movement La Via Campesina.\textsuperscript{41} LVC approached the Human Rights Council (HRC) with an agenda it had internally and autonomously elaborated, and its own draft Declaration which reflected peasant worldviews and conceptions of human rights. The Advisory Committee to the HRC and a core group of states (Bolivia, Ecuador, Cuba and South Africa) considered peasant claims as legitimate\textsuperscript{42} because they were brought by a strong and well recognized transnational social movement uniting small-scale farmers and peasant organizations speaking in their own name. The process gained further traction when several other rural constituencies joined in, partly as a result of LVC’s efforts to reach out to other groups.\textsuperscript{43} Of particular relevance were pastoralists (represented by the World Alliance for Mobile Indigenous Peoples, WAMIP), fishers (World Forum of Fisher Peoples, WFFP), Indigenous Peoples (International Indian Treaty Council, IITC), agricultural workers (International Union of Food Workers, IUF), and other peasant movements not affiliated with LVC (such as the Fédération Internationale des Mouvements d’Adultes Ruraux Catholiques, FIMARC or regional peasant networks from Africa such as the Réseau des organisations paysannes et de producteurs de l’Afrique de l’Ouest, ROPPA). These other rural constituencies have brought in their specific concerns, needs and interests, and pointed to gaps in the original LVC text.

More needs to be said, however, about the role of NGOs. Indeed, LVC would likely not have succeeded in creating or seizing this legal opportunity without the support of carefully selected NGOs and experts.\textsuperscript{44} The emergence, in the late 1990s, of agrarian movements speaking on their own behalf in global governance arenas has been well documented. Their direct representation has challenged the traditional domination of NGOs in such spaces.\textsuperscript{45} The 2009 reform of the UN Committee on World Food Security (CFS), for example, recognizes an active role for civil society organizations as participants in food security debates, and its Civil Society Mechanism (which facilitates and coordinates civil society engagement in the CFS) prioritizes social movements over NGOs.\textsuperscript{46}

Such developments, however, are barely palpable at the HRC, where civil society involvement follows strict rules that considerably limit the direct representation of social movements. These rules, together with the technical nature of human rights debates, make strategic alliances with selected NGOs absolutely necessary for social movements wanting to engage with the HRC. In order to participate in HRC discussions, civil society organizations must obtain general or special consultative status.\textsuperscript{47} The process takes about two years and is ill-conceived for social movements. Organizations have to register their profile, answer a questionnaire about their aims, projects and activities, and describe their structure, membership rules, and sources of income and expenditures. The application is then reviewed by the Committee on Non-Governmental Organizations, which is made of 19 states.\textsuperscript{48}

\textsuperscript{41} While Engle Merry and other authors have documented how universal norms are appropriated and transformed in local struggles (what Engle Merry has called ‘vernacularization’), here we see human rights in their pre-codified form undertaking an institutional, bottom-up trajectory, from grassroots claims to new recognized global norms. I have highlighted this in P. Claeys, ‘The Creation of New Rights by the Food Sovereignty Movement: The Challenge of Institutionalizing Subversion’ (2012) 46(5) Sociology, 844–60.

\textsuperscript{42} Human Rights Council, ‘Final study of the Human Rights Council Advisory Committee to the HRC on the advancement of the rights of peasants and other people working in rural areas (A/HR/19/75)’ (2012).

\textsuperscript{43} The emergence, in the late 1990s, of agrarian movements speaking on their own behalf in global governance arenas has been well documented. Their direct representation has challenged the traditional domination of NGOs in such spaces.

\textsuperscript{44} C. Goly, ‘Legal reflections on the rights of peasants and other people working in rural areas. Briefing paper prepared for the first session of the working group on the rights of peasants and other people working in rural areas, Geneva, 15-19 July 2013’ (2013).


\textsuperscript{46} J. Duncan, \textit{Global Food Security Governance: Civil society engagement in the reformed Committee on World Food Security} (Routledge, 2015).

\textsuperscript{47} Consultative status provides NGOs the opportunity to formally participate in UN meetings, including speaking on the record publicly and organizing events on UN grounds.

\textsuperscript{48} The Committee, which meets twice a year and analyzes about 300 applications per session, has been the target of serious criticism for deferring applications for reasons that are unrelated to the criteria listed above and outlined in UN Resolution 1996/31. Organizations working on sexual orientation and gender identity, reproductive and sexual rights, minority rights and caste have been particularly vocal in denouncing this
In the absence of consultative status,\(^49\) LVC has, since the beginning of the negotiation process, relied on two NGOs, FIAN and CETIM, to gain access to the HRC. These NGOs have also provided logistical, technical and legal support.\(^50\) It should be noted here that the Bolivian Chair of the OEIWG on the Rights of Peasants has, in respect for the work and commitment of LVC, allowed agrarian activists to speak in their own name (that of their respective member organizations) during plenary discussions, and not as FIAN or CETIM as their badge indicates. Similarly, the official attendance list that is included in the report of each session of the OEIWG, and which traditionally mentions only organizations with consultative status, was extended (although not systematically) to include ‘other non-governmental organizations’ such as LVC.\(^51\)

A complex picture emerges from this discussion. On the one hand, the autonomy, legitimacy and direct representation of agrarian movements in global governance have made it possible for grassroots human rights claims to emerge and travel up without the intermediary of NGOs. On the other hand, strategic alliances between transnational movements and NGOs remain important in light of the specific constraints to participating in the HRC. In such a context, one of the main challenges for social movement activists, allied NGOs and human rights experts engaged in what they all see as a shared struggle is to work together in ways that enable social movements representatives to manage and control civil society participation in the process of negotiation. For NGOs and scholar activists, this means extending their support in ways that do not undermine the autonomy and self-organizing power of social movements\(^52\), and limiting the ‘translation’ impacts of their technical and legal support.

**Conclusions**

Since the creation of the OEIWG, five sessions were held in Geneva to discuss successive versions of the draft Declaration. These sessions were characterized by substantial participation of social movements, mainly peasant organizations, who seized this opportunity to ‘build’ their own human rights.\(^53\) At these sessions, civil society organizations –LVC, the International Federation of Rural Adult Catholic Movements-FIMARC, FIAN International, CETIM but also allies from other rural constituencies such as the pastoralists’ network WAMIP, the fishers’ network WFP and the Indigenous Peoples’ network IITC–advanced a number of arguments in defence of a new international human rights instrument. They pointed to the evolutionary character of international law, and its need to develop to respond to the challenges of a changing world.

At the first session of the OEIWG, in July 2013, a first reading of the draft Declaration took place. The draft presented by the Chair was the one elaborated by LVC and adopted by the Advisory Committee to the HRC\(^44\) (A/HRC/19/75), with three minor changes to the ‘original’ Declaration. At the second session, in 2015, the Chair released a radically revised draft Declaration, with the dual objective of reinforcing its coherence with existing human rights standards and responding to the situation, as they represent the majority of such deferred applications, together with organizations working on forced disappearances and human rights in conflict situations, as well as on business and human rights.

\(^{49}\) While other networks such as the international federation of rural adult catholic movements FIMARC or the international federation of organic movements IFOAM have been granted consultative status, La Via Campesina has registered its profile as an organization but not applied.

\(^{50}\) While I focus here on legal support that was provided directly to LVC, it should be noted that a group of legal experts also worked at different times with the Permanent Mission of Bolivia, offering support with identifying agreed language i.e. other relevant international norms that could be used as basis for drafting new versions of the draft Declaration, in an effort to respond to the objections of states. Several of these experts were sympathetic and close to LVC and ensured that such redrafting efforts would be in line with LVC’s demands.

\(^{51}\) In the reports of the first, fourth and fifth sessions, both organizations with consultative status and other NGOs are listed. In the report of the second and third sessions, only those with consultative status are mentioned.

\(^{52}\) This is less of a challenge at the CFS where the CSM mechanism ensures the balanced participation of distinct constituencies and assigns only a limited role to NGOs (although they do play facilitation roles).


\(^{54}\) This draft was presented in the annex to the 2012 Final study of the HRC Advisory Committee on the advancement of the rights of peasants and other people working in rural areas.
objections voiced by states. At the 3d session, in 2016, the 2015 draft Declaration was made available in all 5 UN languages, which enabled more substantive discussions. At the 4th session, in 2017, the Chair presented a new and shorter draft, in a further effort to gather more support from HRC member states.

In April 2018, the 5th and last session enabled discussions over yet another revised draft. Over the summer of 2018, Bolivia conducted further bilateral and informal negotiations with a view to secure the support votes of a few additional states by making the latest necessary adjustments in the text, while remaining in constant dialogue with LVC. The result of these discussions was a considerably amended draft, which Bolivia presented, together with the report of the 5th session, at the 39th session of the HRC on the 21st of September 2018. A week later, Bolivia submitted the declaration to a vote and succeeded in gathering a majority of states to support the text. The UNDROP further needs to be discussed at the UN General Assembly Third Committee before its eventual adoption by the UN General Assembly in New York, after which efforts will need to focus on its dissemination and implementation.

In this paper, I shed light on some under-explored aspects of the framework developed by Bob for analysing the creation of new rights. With regard to step 2 (connecting to international NGOs), my analysis showed that, in the case of the UN Declaration on the Rights of Peasants, the claimants were not local communities represented by intermediary local and international NGOs but agrarian activists organized at the transnational agrarian level and speaking on their own behalf. Their legitimacy and autonomy as social movement representatives enabled them to engage directly with states and to put their claims on the international agenda without requiring the certification of big gatekeeping NGOs. The support role played by human rights experts and small NGOs such as FIAN International and CETIM was nevertheless critical—in particular for access to the HRC and legal expertise—but it never threatened the ability of social movements to lead civil society’s participation in the process. In light of this, I argue that the frameworks developed to date to analyse the process of creation of new rights by social groups need to be updated to account for the emergence of transnational social movements representing the affected and capable of engaging, directly and autonomously with states, in the political and technical process of creating new global human rights norms.


56 Human Rights Council, ‘Draft declaration on the rights of peasants and other people working in rural areas presented by the Chair-Rapporteur of the working group (A/HRC/WG.15/3/2)’ (2016).


58 Discussion of the UNDROP is scheduled for the 73d session of the UNGA Committee on Social, Humanitarian & Cultural Issues (Third Committee), where it is listed under ITEM 74 (b): Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms. See: http://www.un.org/en/ga/third/73/documentslist.shtml