

THE RIGHT TO LAND AND TERRITORY: NEW HUMAN RIGHT AND COLLECTIVE ACTION FRAME

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The Right to Land and Territory: New Human Right and Collective Action Frame¹

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Abstract

Resistance against the appropriation of nature, especially land, has been one of the key struggles of the transnational agrarian movement La Via Campesina (LVC) since its inception in 1993. The issue of access to land has become even more central after the food crisis of 2007-08, in a context increasingly marked by land grabbing and climate change. This contribution offers a critical examination of the emergence of the « right to land and territory », both as a collective action frame deployed by transnational peasant movements, and as a new human right in international law. It explores the various ways in which agrarian movements are using the human rights framework to question the establishment of absolute private property rights over land, and restore political limits on access to land. It argues that peasant movements are claiming a new human right to land through a combination of institutional and extra-institutional channels, in an effort not only to achieve increased protection of peasants' land rights (against and by the state), but also to advance an alternative conception of human rights that resonates with their worldviews, and allows for the development of food sovereignty alternatives, including outside the state.

¹ The ideas expressed in this article were first presented at the international Symposium « Property from Below » organized by Balakrishnan Rajagopal and Olivier De Schutter at MIT on 28 February 2014. An earlier version of this paper was published under « Droit à la terre et contrôle des territoires. Du rôle du droit dans les luttes agraires », in *Au-delà de l'accaparement. Ruptures et continuités dans l'accès aux ressources naturelles*, L. Silva-Castañeda et al. (dir.), coll. Ecolopolis, Bruxelles, Peter Lang, 2014, p. 135-154. The author is grateful for all the comments she received.

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Résumé

La lutte contre l'appropriation de la nature, en particulier la terre, a été l'une des luttes clés du mouvement agraire transnational La Via Campesina (LVC) depuis sa création en 1993. La question de l'accès à la terre est devenue encore plus centrale après la crise alimentaire de 2007-08, dans un contexte de plus en plus marqué par l'accaparement des terres et le changement climatique. Cet article offre un examen critique de l'émergence du « droit à la terre et au territoire », à la fois comme cadre d'action collective déployé par les mouvements paysans transnationaux, et comme nouveau droit humain en droit international. Il explore comment les mouvements agraires ont utilisé le cadre des droits humains pour questionner l'établissement de droits de propriété absolus sur la terre et rétablir des limites politiques à l'accès à la terre. Il défend l'idée que les mouvements paysans défendent un nouveau droit à la terre en combinant les canaux institutionnels et extra-institutionnels, dans le but de renforcer la protection des droits des paysans à la terre (contre et par l'État) mais aussi dans le but d'avancer une conception alternative des droits humains qui corresponde davantage à leurs visions du monde et permette le développement d'initiatives fondées sur la souveraineté alimentaire, y compris en marge de l'État.

1. Introduction

The commodification of natural resources, and especially the conversion of land into a product that can be bought, sold, leased or exchanged on markets, is one of the founding characteristics of capitalism³. Marx and Polanyi, for example, showed that the enclosure of land played a key role in the development of capitalism in England in the 16th and 17th century⁴. Today, an increasing proportion of the common resources upon which rural communities depend is being commoditized. This historical process of commodification is far from complete however : in many parts of the world, the establishment of private property rights on the land, enshrined

³ H. BERNSTEIN, *Class dynamics of agrarian change*, coll. Agrarian Change and Peasant Studies, Initiatives in Critical Agrarian Studies, Fernwood Publishing and Kumarian Press, Nova Scotia and Hartford, CT, 2010.

⁴ L. VERGARA-CAMUS, « The legacy of social conflicts over property rights in rural Brazil and Mexico: Current land struggles in historical perspective », *Journal of Peasant Studies*, vol. 39, 2012, n°5, p. 1133-1158.

in law and enforced by the state, is not yet a reality. It is challenged by social actors, particularly in the rural South⁵ but also in the North⁶.

The pressures on the land seem more numerous every day, as the result of urbanization, tourism, industrialization or mining. In addition, land has been transformed into an opportunity for transnational investment, as shown by the growing number of large-scale acquisitions of land, a phenomenon widely documented since the 2007-08 food crisis and reinforced by the financialization of agriculture⁷. States have played an active role in this process, often facilitating the appropriation of nature through legislative reforms to encourage companies, pension funds and other states to invest in land⁸.

The gradual appropriation of nature has had devastating consequences for the rural world. At the heart of the global food crisis, the transnational agrarian movement La Via Campesina (LVC) denounced « the ferocious offensive of capital and of transnational corporations (TNCs) to take over land and natural assets (water, forests, minerals, biodiversity, land, etc.), that translates into a privatizing war to steal the territories and assets of peasants and indigenous peoples »⁹. Resistance against the appropriation of nature, especially land, has been at the center of La Via Campesina's struggles since its inception in 1993. One of the objectives of food sovereignty, the movement's principal demand, is to ensure that the rights to use and manage lands, territories, waters, seeds, livestock and biodiversity are in the hands of those of us who produce food¹⁰.

This contribution offers a critical examination of the emergence of the « right to land and territory », both as a collective action frame deployed by transnational peasant movements, and as a new human right in international law. It explores the various ways in which agrarian movements are using the human rights framework to question the establishment of « absolute private property rights » over land, and restore « political limits on

⁵ H. BERNSTEIN, *op. cit.*, *supra* n.3, p. 98-102.

⁶ TRANSNATIONAL INSTITUTE, « Land concentration, land grabbing and people's struggles in Europe », TNI Agrarian Justice Programme, Amsterdam, Transnational Institute, 2013. See www.tni.org

⁷ M. MARGULIS, N. MCKEON and S. BORRAS, « Land Grabbing and Global Governance: Critical Perspectives », *Globalizations*, vol. 10, 2013, n°1, p. 1-23.

⁸ R. KÜNNEMANN and S. MONSALVE SUÁREZ, « International Human Rights and Governing Land Grabbing: A View from Global Civil Society », *Globalizations*, vol. 10, 2013, n°1, p. 123-139.

⁹ LA VIA CAMPESINA, « Declaration of the 5th International Conference of Via Campesina, Maputo, Mozambique », 19 October 2008. See www.viacampesina.org

¹⁰ S. MONSALVE SUÁREZ, « The Human Rights Framework in Contemporary Agrarian Struggles », *Journal of Peasant Studies*, vol. 40, 2013, n°1, p. 239-290.

access to, and exploitation of, land and resources »¹¹. It argues that peasant movements are claiming a new human right to land through a combination of institutional and extra-institutional channels, in an effort not only to achieve increased protection of peasants' land rights (against and by the state), but also to advance an alternative conception of human rights that resonates with their worldviews, and allows for the development of food sovereignty alternatives, including outside the state.

This article integrates insights from the sociology of rights, sociology of social movements and rural sociology. It is based on more than 115 semi-directed interviews of leaders and members of the transnational food sovereignty movement, and notably with La Via Campesina activists in Mexico, Guatemala, Nicaragua, Canada, France, Belgium and Indonesia, and on participant observation at more than 65 meetings with agrarian activists in the above mentioned countries as well as in Haiti, Nepal, India, the Democratic Republic of the Congo, Bolivia and various United Nations (UN) bodies, notably the Committee on World Food Security (CFS) and the Human Rights Council (HRC), between April 2008 and November 2014.

After describing how La Via Campesina (LVC) activists have used the human rights framework to formulate land claims (2), this article discusses activists' efforts to achieve the recognition and protection of land rights, both through institutional channels (3), and at the grassroots (4). It focuses on two UN processes where LVC has succeeded in generating debate on land rights and contributed to generating new international norms dealing with access to resources: the Human Rights Council and the Committee on World Food Security. It ends with a discussion of the various frames that are currently deployed by La Via Campesina activists in ongoing land struggles (5), and offers some concluding thoughts (6).

2. La Via Campesina, Land Struggles and Human Rights Framing

The transnational movement La Via Campesina counts more than 164 national and sub-national organizations from 79 different countries, as of the last International Conference of June 2013. It developed in the early 1990s as farmers from various organizations from Central and South America, North America, Asia and Europe started sharing experiences and set to create a network to articulate a common response to the wave of neoliberal reforms that had struck their regions in the 1980s, leading to a

¹¹ L. VERGARA-CAMUS, *op. cit.*, *supra* n.4, p. 1137.

drastic decline in their livelihoods¹². Over the last twenty years, LVC activists have mobilized around a range of issues including agricultural trade liberalization and the World Trade Organization (WTO), genetically modified organisms (GMOs), agrarian reform, and development projects (dams, mining concessions, nature reserves), strongly contributing to the visibility of the global justice movement¹³. More recently, LVC has turned its attention to issues of climate justice¹⁴, agroecology¹⁵, land and resource grabbing, and the articulation of all three.

Access to land was a key theme of the parallel forum to the World Food Summit in 1996 (Via Campesina 1996), which saw the participation of several La Via Campesina activists. In 1999, LVC launched the « Global Campaign for Agrarian Reform (GCAR) », in partnership with the international human rights organization Foodfirst Information and Action Network (FIAN) that defends the right to food worldwide. The GCAR denounced the land titling policies of the World Bank and its « market assisted land reform » programmes for privatizing land and leading to the reconcentration of the land. On the occasion of the WTO ministerial summit of Seattle, the same year, the network called for the right of each country to « prohibit imports in order to protect domestic production and to implement Agrarian Reform providing peasants and small to medium-sized producers with access to land »¹⁶. In the years following, LVC engaged in dialogue with other constituencies – nomadic pastoralists, fisher folk and indigenous peoples – on the various meanings and functions attached to the land, for example on the occasion of the *Land, territory and dignity* Forum organized in the margins of the 2006 International Conference on Agrarian Reform and Rural Development (ICARRD)¹⁷. It also tried to define its own vision of agrarian reform, integrating lessons learned from past agrarian reform processes, and linking the land issue to the broader issues of food sovereignty and the environment¹⁸.

¹² A. DESMARAIS, *La Via Campesina, une réponse paysanne à la crise alimentaire*, Montréal, Ecosociété, 2008.

¹³ G. PLEYERS, *Alter-Globalization. Becoming Actors in the Global Age*, Cambridge, Polity Press, 2010.

¹⁴ N. BULLARD and T. MÜLLER, « Beyond the “Green Economy”: System change, not climate change? », *Development*, vol. 55, 2012, n°1, p. 54-62.

¹⁵ P. ROSSET and M. MARTÍNEZ-TORRES, « Rural Social Movements and Agroecology: Context, Theory, and Process », *Ecology and Society*, vol. 17, 2012, n° 3, art. 17.

¹⁶ LA VIA CAMPESINA, « Seattle Declaration: Take WTO out of agriculture », 3 December 1999. See www.viacampesina.org

¹⁷ P. ROSSET, « Re-thinking agrarian reform, land and territory in La Via Campesina », *Journal of Peasant Studies*, vol. 40, 2013, n°4, p. 721-775.

¹⁸ S. BORRAS, « La Via Campesina and its Global Campaign for Agrarian Reform », *Journal of Agrarian Change*, vol. 8, 2008, n° 2-3, p. 258-289.

The issue of access to land has become even more central after the food crisis of 2007- 2008, in a context increasingly marked by land grabbing and climate change. Gathered at the occasion of the World Summit on Food Security organized by FAO in June 2008, LVC and other social organizations, demanded that an end be put to the « new enclosure movement » that converts « arable, pastoral, and forest lands for the production of fuel »¹⁹. As anticipated by Borras, the major policy battle around land policy today is being fought around the twofold issue of « formalization » of land rights and « privatization » of remaining public lands²⁰. The terms of the global land reform debates have radically changed, forcing La Via Campesina to think beyond land reform, and the GCAR to reassess its strategy. This, in essence, was the objective of the International Workshop and Seminar « Agrarian Reform and Defense of Land and Territory in the 21st Century: The Challenge and the Future » organized by the movement in Indonesia in 2012²¹. At the heart of the discussions were the need to expand the scope of the GCAR to better take into account the issue of access to land in the North, the specific challenges faced by indigenous peoples in the defence of their territories, and how to react to resource grabbing and counter-agrarian reform processes.

To build a common agenda for a widely diverse (politically, economically and culturally) membership, and to overcome North-South divisions, LVC has widely relied on human rights « framing ». The movement has framed its main organizational frame, food sovereignty as a new collective right²² – the right of peoples « to define their own food and agriculture systems »²³ – and, to a large extent, has framed its struggles over access to land and control over resources as human rights issues. Framing – the production of « meaning » for participants and their opponents – is one of the main activities of social movements: it is used to diagnose certain situations as problematic, propose solutions and call activists to action. The « rights master frame »²⁴ has been mobilized by a wide range of

¹⁹ INTERNATIONAL PLANNING COMMITTEE FOR FOOD SOVEREIGNTY (IPC), « No More Failures-as-Usual! », Civil Society statement on the World Food Emergency, Rome, 1 June 2008. See www.foodsovereignty.org

²⁰ S. BORRAS, *op. cit.*, *supra* n.18, p. 281.

²¹ LA VIA CAMPESINA, « Bukit Tinggi Declaration on agrarian reform in the 21st Century », 14 July 2012. See www.viacampesina.org

²² P. CLAEYS, « The Creation of New Rights by the Food Sovereignty Movement: The Challenge of Institutionalizing Subversion », *Sociology*, vol. 46, 2012, n°5, p. 844-860.

²³ NYÉLÉNI FOOD SOVEREIGNTY FORUM, « Declaration of Nyéléni », 27 February 2007. See www.nyeleni.org

²⁴ If most frames are « organizational » or specific to a particular social movement, some frames are shared by a large number of movements, because they are more inclusive, more flexible,

movements²⁵, for it facilitates the international exportation of claims²⁶ and helps formulate demands in a way that does not put forward particular or sectorial interests²⁷. These factors help explain the appeal of the rights master frame for LVC activists, who faced the challenge of having to articulate demands emerging from widely different local, cultural, political and social contexts.

Human rights framing was at the core of the « Global Campaign for Agrarian Reform (GCAR) »²⁸. La Via Campesina and FIAN International jointly framed land claims in terms of rights, in an effort to articulate agrarian issues and human rights law and methodologies²⁹. Exchanges between the two networks led, in the first years of the campaign, to the collective elaboration of what could be described as a « right to agrarian reform » frame, although the term was not formally used. Efforts to give life and content to this right soon revealed important differences in how the two networks conceived of human rights. For LVC, the objective of the GCAR was to defend the right to produce, to resist the creation of land markets by the World Bank, to demand recognition of the social function of the land, and to preserve/promote collective forms of land use/tenure³⁰. For FIAN International, which had documented numerous land conflicts since its creation in 1986, and had supported local communities in their struggle for the land, mostly through letter campaigns, the challenge was twofold. It was, first, to emphasize that excluding food producers from accessing the productive resources that they rely on was a human rights violation, and,

and because they resonate. This allows them to function as “master frames”. The “rights master frame” was initially mobilized by the civil rights movement, and has been deployed in many social struggles articulated in terms of rights, such as welfare rights, women’s rights, the rights of migrants, gay and lesbian rights and indigenous rights. See R. BENFORD and D. SNOW, « Framing Processes and Social Movements: an Overview and Assessment », *Annual Review of Sociology*, vol. 26, 2000, p. 611-639.

²⁵ R. BENFORD and D. SNOW, *op. cit.*, *supra* n.24.

²⁶ E. AGRIKOLIANSKY, « Les usages protestataires du droit », in *Penser les mouvements sociaux. Conflits sociaux et contestations dans les sociétés contemporaines*, O. Fillieule (dir.), Paris, La Découverte, 2010, p. 225-243.

²⁷ P. MOONEY and S. HUNT, « A Repertoire of Interpretations: Master Frames and Ideological Continuity in U.S. Agrarian Mobilization », *The Sociological Quarterly*, vol. 37, 1996, n°1, p. 177-197.

²⁸ An assessment of the achievements and limitations of the GCAR is beyond the scope of this paper. See S. BORRAS, *op. cit.*, *supra* n.18.

²⁹ S. BORRAS, *op. cit.*, *supra* n. 18.

³⁰ LA VIA CAMPESINA, « Commentary on land and rural development policies of the World Bank », Working document, Global Campaign for Agrarian Reform. 14 February 2006. See www.viacampesina.org

second, to conceptualize the implementation of redistributive land reforms as an obligation of states³¹.

From a framing perspective, these two objectives were somewhat in tension and their articulation was no easy task. To highlight the importance of securing access to land to ensure the livelihood of rural communities, FIAN deployed a « right to feed oneself » frame³², in particular in its communications to the general public and potential allies. This frame aimed at pushing for an « agrarian » interpretation of the right to food, and at clarifying that the right to food was not to be understood as the right to be fed. In its communications to states, however, FIAN always made explicit reference to the right to food as recognized by the UN, and almost systematically recalled the obligations that derived from the International Covenant on Economic, Social and Cultural Rights (ICESCR). The « right to food » frame enabled the organization to remind states of their commitments under international human rights law, and imbued the demands it made of states with the legitimacy of internationally agreed language.

This strategy proved partly successful, as it allowed FIAN to use the law to push for a progressive interpretation of it³³. Thanks to its « right to feed oneself » frame, for example, FIAN managed to influence normative developments of the right to food in ways that recognize its agrarian dimensions³⁴. At the same time, the « right to feed oneself » frame can be considered as a « failed frame »³⁵, in the sense that it lacked resonance. It

³¹ M. WINDFUHR, « Agrarian Reform: A Human Rights Obligation », Paper presented to the International Conference on Agrarian Reform and Rural Development (ICARRD) which was held in Tagaytay City, Philippines, Heidelberg, FIAN International, December 2000.

³² R. KÜNNEMANN, « The Human Right to Food: a Strategy for an International Network », in *The right to food: from soft to hard law*. Report of the International Conference organized by the Netherlands Institute of Human Rights in cooperation with the Norwegian Human Rights Project and the Christian Michelsen Institute, Norway, from 6-9 June 1984, Utrecht, Netherlands Institute of Human Rights (SIM), 1984, p. 90-103.

³³ This is exemplified by article 11(2) of the ICESCR, which was used by FIAN activists to justify the existence of an obligation to implement agrarian reforms: « the States Parties to the present Covenant [...] shall take [...] the measures [...] which are needed [...] to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources [...] » (International Covenant on Economic, Social and Cultural Rights, art. 11(2)).

³⁴ General comment 12 defines availability as « the possibilities either for feeding oneself directly from productive land or other natural resources, or for well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand » (General Comment 12 on the right to adequate food (art. 11) of the UN Committee on Economic, Social and Cultural Rights (E/C.12/1999/5)).

³⁵ A. HEITLINGER, « Framing feminism in post-communist Czech Republic », *Communist and Post-Communist Studies*, vol. 29, 1996, n°1, p. 77-93.

was brought to the attention of La Via Campesina organizations in the early 90s, but was, interestingly, not picked up by LVC activists, despite its striking proximity with the then emerging « right to food sovereignty » frame. It was later dropped by the organization, in favour of the more universal « right to food » frame, which was perceived as able to better capture the nutritional dimensions of the right to food, and the specific needs of the urban poor. The former Secretary General of FIAN comments: « You cannot replace the right to food with the right to feed oneself (...) Via Campesina uses the point of view of producers (...) but they do not see themselves as having to solve this (...) the right to feed oneself was dropped from FIAN's vision and documents »³⁶.

While FIAN defended access to land as an essential component of the right to food, La Via Campesina did not confine its claims to the limits set by international human rights law. Rather, it framed its demands in terms of rights that did not enjoy legal recognition and were in that sense new, such as the « right to produce », the right « to be a peasant », and the « right to land and territory ». Such claims indicated a departure from the social-democratic conception of rights³⁷ that is at the heart of the right to food, and indicated the emergence of an alternative conception of human rights, characterized by a strong focus on the concept of responsibility and an emphasis on the interdependence of human beings and nature/their environment³⁸. This excerpt from the synthesis report of the Nyeleni 2011 Food sovereignty European Forum is illustrative of this:

« Reclaiming the right to our Commons. We oppose and struggle against the commodification, financialisation and patenting of our commons, such as: land; farmers', traditional and reproducible seeds; livestock breeds and fish stocks; trees and forests; water; the atmosphere; and knowledge. Access to these should not be determined by markets and money. In using common resources, we must ensure the realisation of human rights and gender equality, and that society as a whole benefits. We also acknowledge our responsibility to use our Commons sustainably, while respecting the

³⁶ Interview by the author, Heidelberg, 23 June 2009.

³⁷ N. STAMMERS, « A Critique of Social Approaches to Human Rights », *Human Rights Quarterly*, vol. 17, 1995, n° 3, p. 488-508.

³⁸ P. CLAEYS, « Vers des alternatives au capitalisme néolibéral par une conception alternative des droits humains? L'expérience des organisations paysannes », in *Le courage des alternatives*, C. Eberhard (dir.), Cahiers d'Anthropologie du droit. Laboratoire d'anthropologie juridique de Paris UMR de droit comparé - Paris I, Paris, Karthala, 2012, p. 103-120.

rights of mother earth. Our Commons should be managed through collective, democratic and community control »³⁹.

3. Institutional Strategies to Demand New (Land) Rights at the International Level

La Via Campesina has sought recognition of new human rights dealing with access to land and resources in two international arenas: the Human Rights Council (HRC), where LVC has obtained that negotiations take place on a « Declaration on the Rights of Peasants and Other People Living in Rural Areas », and the Committee on World Food Security (CFS), where LVC has engaged in discussions on how to best secure tenure of land and support reinvestment in small-holder agriculture. Elsewhere, I have discussed the institutional trajectory of the new right to food sovereignty, with an emphasis on international trade and the right to participate in policy-making⁴⁰. This contribution focuses on the « right of peoples to land and territory »⁴¹, leaving aside other important developments with regard to rights and resources, such as the recognition of « farmers' rights » over their seeds and biodiversity, notably at the FAO through the International Treaty on Plant Genetic Resources for Food and Agriculture⁴².

One could wonder why LVC has put efforts into the creation of new human rights, whilst most movement activists perceive existing human rights as difficult to realize and almost impossible to enforce. Why not focus on implementation? Why not make (better) use of national, regional and international human rights protection mechanisms? For years, this issue was at the heart of tensions between LVC activists and human rights experts⁴³ who were concerned that the « proliferation » of new rights would threaten the consistency of the human rights framework⁴⁴.

³⁹ NYÉLÉNI FOOD SOVEREIGNTY FORUM, « Synthesis Report. Nyéléni Forum for Food Sovereignty », 2007. See www.nyeleni.org

⁴⁰ P. CLAEYS, « Food Sovereignty and the Recognition of New Rights for Peasants at the UN: A Critical Overview of La Via Campesina's Rights Claims over the Last 20 Years », vol. 12, 2015 (published online in 2014), n° 4, p. 452-465.

⁴¹ LA VIA CAMPESINA, *op. cit.*, *supra* n.21.

⁴² S. BATTÀ BJØRNSTAD, *Breakthrough for "the South"? An Analysis of the Recognition of Farmers' Rights in the International Treaty on Plant Genetic Resources for Food and Agriculture*. FNI Report 13/2004, Lysaker, Norway, Fridtjof Nansen Institute, 2004.

⁴³ Interview by the author, Geneva, 3 July 2009.

⁴⁴ P. ALSTON, « Conjuring up New Human Rights: A Proposal for Quality Control », *The American Journal of International Law*, vol. 78, 1984, n°3, p. 607-621.

I argue that peasant movements have engaged in the creation of new human rights at the international level⁴⁵ because such processes allow for « new interpretations and reconfigurations of meanings » to emerge⁴⁶ and provide an arena where contestation can take place. Indeed, the two norm-setting processes I discuss below, both at the HRC and at the CFS, are indicative of the ability of agrarian movements to create « legal opportunity structures » understood as a specific set of circumstances allowing a social movement to push through legal change⁴⁷. The creation/seizing of such opportunities is important to analyze in view of what local and national peasant movements may experience or perceive as their inability to bring change in national settings. As other scholars have shown, failure to achieve the enforcement of state laws is often what drives activists to go global⁴⁸. Peasant activists may decide to support international processes in the hope that these will help achieve goals set at the national level⁴⁹, such as agrarian reform in Indonesia⁵⁰. Engagement in intergovernmental processes is therefore often characterized by a tension between the demand to be included as citizens (legal inclusion) and resistance against the state, a tension that has been well documented in the case of indigenous peoples' rights⁵¹.

A. The Declaration on the Rights of Peasants at the Human Rights Council

The Declaration on the Rights of Peasants, adopted by LVC at its International Conference in Maputo in 2008, places a strong emphasis on

⁴⁵ C. BOB, *The International Struggle for New Human Rights*, Philadelphia, University of Pennsylvania Press, 2010.

⁴⁶ R. IDRUS, « From Wards to Citizens: Indigenous Rights and Citizenship in Malaysia », *PoLAR: Political and Legal Anthropology Review*, vol. 33, 2010, n°1, p. 89-108, p. 91.

⁴⁷ L. ISRAËL, « Faire émerger le droit des étrangers en le contestant, ou l'histoire paradoxale des premières années du GISTI », *polix*, vol. 16, 2003, n°62, p.115-143.

⁴⁸ K. NASH, « Human Rights, Movements and Law: On Not Researching Legitimacy », *Sociology*, vol. 46, 2012, n°5, p. 797-812.

⁴⁹ This effect has been described by Keck and Sikkink as the “boomerang” pattern of influence: domestic NGOs bypass their state and search out international allies to try to bring pressure on their states from outside. While research conducted by Keck and Sikkink focuses on transnational advocacy networks and the impacts of transnational campaigns on the domestic context, many parallels can be drawn with the expected outcomes of engaging in norm-setting at the international level. See M. KECK and K. SIKKINK, *Activists Beyond Borders: Advocacy Networks in Transnational Politics*, Ithaca, Cornell University Press, 1998.

⁵⁰ KONSORSIUM PEMBARUAN AGRARIA KPA, « UN Declaration on The Human Rights of peasants Can Encourage Implementation of Agrarian Reform in Indonesia », April 2013. See www.kpa.or.id/?p=1516&lang=en consulted on 10 February 2014.

⁵¹ R. IDRUS, *op. cit.*, *supra* n.46.

land issues. Article 4 on the « right to land and territory », claims a wide range of new rights for peasants, such as:

- the « right to own land, collectively or individually, for their housing and farming »;
- the « right to toil on their own land, and to produce agricultural products, to rear livestock, to hunt and gather, and to fish in their territories »;
- the right to « manage, conserve and benefit from the forests »;
- the right to « reject all forms of acquisitions of land and land conversion for economic purposes »; and
- the « right to security of tenure and not to be forcibly evicted from their lands and territories »⁵².

The first version of the Declaration on the Rights of Peasants was developed in 1999 in Indonesia. The Peasants' Rights Charter, as it was then called, was originally discussed by farmers, academics and NGO activists, in the framework of a participatory research project on integrated pest management conducted by the International Institute for Environment and Development (IIED) in the late 1990s. At the time, the main concern of farmers was to denounce the green revolution and corporate take-over of agriculture⁵³, but land issues were also at the forefront. In 2002, the Indonesian agrarian organization SPI brought the draft Declaration to the attention of the other member organizations of LVC in the region. The Declaration was later put on the agenda of the international working committee of LVC on human rights.

In recent years, LVC has actively worked to bring the Declaration to the Human Rights Council with the support of human rights experts and NGOs such as FIAN International and Centre Europe Tiers Monde (CETIM). These efforts have borne fruit. On 23 September 2012, the Council adopted a resolution on the « Promotion of the human rights of peasants and other people living in rural areas » sponsored by Bolivia, Cuba and South Africa. An inter-governmental working group was created with the mission to negotiate, finalize and submit to the Council a final draft Declaration, taking

⁵² LA VIA CAMPESINA, « Declaration of Rights of Peasants, Women and Men », June 2008. See www.viacampesina.org

⁵³ M. FAKIH, T. RAHARDJO and M. PIMBERT, « Community Integrated Pest Management in Indonesia. Institutionalising Participation and People Centred Approaches », International Institute for Environment and Development (IIED) and Institute for Development Studies (IDS), 2003. See www.iied.org

as basis for discussion the text proposed by LVC⁵⁴ with some adjustments to improve the structure and make it more consistent with UN language⁵⁵.

At the first session of the working group, in July 2013, experts were invited to discuss various aspects of the proposed Declaration, and states had the opportunity to express their views⁵⁶. On 12 November 2014, an informal consultation was held during which civil society⁵⁷ participants insisted on the need to ensure that the instrument protects not only peasants but all people working in rural areas, and on the importance of guaranteeing access to resources. At the second session in February 2015, a new draft Declaration was presented by Ambassador Angelica Navarro of Bolivia, with a view to overcoming opposition by some HRC member states. In order to do this, the new draft uses agreed language wherever possible, i.e. it builds on recent developments in international human rights law, as well as advances in other relevant international fora, to formulate the new rights (to land, seeds, decent livelihoods) listed in the Declaration. Negotiations are expected to continue in the years to come.

The assertion of new rights to resources is likely to constitute a stumbling block in the negotiations. For LVC, the rights to land, seeds, biodiversity and fair prices are central elements of the Declaration. For states reluctant to recognize new human rights for peasants, such as the European Union member states or the United States, the proposed right to land and right to seeds are amongst the most controversial ones, because of the collective nature of the rights claimed, because their indeterminate content departs from existing standards, and because of the challenges that their implementation would represent. These rights have also been criticised for being associated with and imposing a certain type of development model⁵⁸.

⁵⁴ UNITED NATIONS HUMAN RIGHTS COUNCIL, « Resolution on the Promotion of the human rights of peasants and other people working in rural areas (A/HRC/21/L.23) », United Nations, 22 September 2012.

⁵⁵ C. GOLAY, « Les droits des paysans », *Cahier critique* n°5, Centre Europe Tiers-Monde (CETIM), September 2009. See www.cetim.ch

⁵⁶ UNITED NATIONS HUMAN RIGHTS COUNCIL, « Report of the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas. Chairperson-Rapporteur: Angélica C. Navarro Llanos (A/HRC/26/48) », United Nations, 11 March 2014.

⁵⁷ La Via Campesina, the International Federation of Rural Adult Catholic Movements (FIMARC), the World Forum of Fisher People (WFFP), the International Union of Food Workers (IUF), CETIM and FIAN.

⁵⁸ C. GOLAY, « Negotiation of a United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas », *In-Brief No. 5*, Geneva Academy, January 2015.

B. Land Issues at the Committee on World Food Security

In parallel, LVC has invested new arenas of global governance, such as the Committee on World Food Security (CFS), to actively contribute to the development of new international standards related to land issues, to a large extent grounded in human rights⁵⁹. Since its reform in 2009, the CFS has emerged as a central policy platform at the UN to address issues of food security, agriculture and nutrition. The CFS is an interesting arena due to the alternative governance model it offers⁶⁰. It includes as members not only states, but also international financial institutions, international organizations, the private sector, foundations and civil society.

The CFS represents a new institutional space within which peasant movements can formulate their claims. Through the « civil society mechanism (CSM) »⁶¹, LVC has actively participated in the negotiations of Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), which were endorsed by the CFS in May 2012. It has also been involved in the negotiations of Principles for Responsible Agricultural Investment (PRAI), which were adopted by the CFS in October 2014 in response to the phenomenon of land grabbing.

Most members of the Civil Society Mechanism positively assess progress made so far within the CFS, despite the fact that debates are often perceived as too technical and disconnected from on the ground realities. To many, participation in the negotiations on the VGGT demonstrated that civil society involvement in international standard setting can make a difference, as it enabled the recognition of the « legitimate tenure rights » of rural communities over the lands and territories they depend on for their livelihoods⁶². According to the VGGT, states should recognize and respect these rights, including informal and customary rights, and protect land rights

⁵⁹ P. MCMICHAEL, « Rethinking Land Grab Ontology », *Rural Sociology*, vol. 79, 2014, n°1, p. 34-55.

⁶⁰ O. DE SCHUTTER, « The Reform of the Committee on World Food Security: The Quest for Coherence in Global Governance », in *Rethinking Food Systems*, N. Lambek (ed.), Dordrecht, Springer Netherlands, 2014, p. 219-238.

⁶¹ The Civil Society Mechanism (CSM) operates in an autonomous and self-organized fashion and ensures the participation of 11 constituencies (small farmers, fisherfolk, landless, urban poor, agricultural workers, women, youth, indigenous peoples, consumers and NGOs) from 17 different sub-regions according to specific procedures. La Via Campesina sits in a number of working groups, where themes such as land, agricultural investment, gender or nutrition are discussed.

⁶² L. PAOLONI and A. ONORATI, « Regulations of Large-Scale Acquisitions of Land: The Case of the Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest », *The Law and Development Review*, vol. 7, 2014, n° 2, p. 32.

holders in the context of land transfers, large-scale investments in land, and programmes designed to adapt to and mitigate the impacts of climate change. States should also facilitate land reform processes where necessary⁶³. Civil society efforts are now turning to the implementation of the VGGT in national contexts, notably through the setting-up of multi-stakeholder dialogue platforms. How the VGGT will be implemented and interpreted in the years to come will determine if the development of new international standards on land tenure has a positive impact on land tenure security on the ground.

Participation in the PRAI process, however, proved less successful. In the initial phase of the negotiations, civil society participants felt satisfied that they were able to use the process to promote an alternative development vision, grounded in peasant-based agroecological production and local food systems and markets. When the principles were finally adopted, however, at the 41st session of CFS, civil society participants walked out in protest, complaining that the principles failed to recognize the central role of small-scale producers and workers, instead placing the emphasis on facilitating large-scale investment. Members of the Civil Society Mechanism also regretted that the principles failed to offer protection against land grabbing, and were not sufficiently grounded in international human rights standards⁶⁴. The principles nevertheless reaffirm the importance of respecting legitimate tenure rights.

C. Towards a Right to Land and Territory in International Law?

Progress so far and ongoing discussions on land issues, both within the Human Rights Council and the Committee on World Food Security, suggest the existence of a window of opportunity for the recognition of a new human right to land⁶⁵. The idea has made some notable advances in recent years. In its 2007 report to the Human Rights Council, the Special Rapporteur on the right to housing, Miloon Kothari, recommended that the right to land be recognized in international law. The Special Rapporteur on the Right to Food, Olivier De Schutter, in its 2010 report to the General

⁶³ UNITED NATIONS COMMITTEE ON WORLD FOOD SECURITY (CFS), « Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security », United Nations, 9 March 2012.

⁶⁴ CIVIL SOCIETY MECHANISM, « Civil society statement on rai », 15 October 2014. See www.panap.net/campaigns/land-food-rights/international-advocacy-and-instruments/2498 consulted on 19 January 2015.

⁶⁵ O. DE SCHUTTER, « The Emerging Human Right to Land », *International Community Law Review*, vol. 12, 2010, n°3, p. 303-334; J. GILBERT, « Land Rights as Human Rights: The Case for a Specific Right to Land », *SUR - International Journal on Human Rights*, vol. 10, 2013, n° 18, p. 115-136.

Assembly recommended that international human rights bodies consolidate the right to land and clarify « the issue of land as a human right »⁶⁶. The Rapporteur also called on states to implement land redistribution programmes wherever there is a high degree of land ownership concentration⁶⁷.

Following intense internal discussions, FIAN International has also called for the formal recognition of a right to land⁶⁸, which the organization defends as a necessary response to land grabbing. For FIAN, the explicit recognition of a right to land would enable questioning the legal doctrines inherited from the colonial era (which grant states the almost absolute power to dispose of the soil and do not effectively protect informal or customary land rights), as well as political reforms aimed at promoting the privatization and commodification of the land such as titling programmes. The new right to land would be defined as the « right of every human being to access – individually or in community – local natural resources in order to feed themselves sustainably, to house themselves and to live their culture »⁶⁹. It is not framed as a right to property and it does not refer to rights to buy or sell land, nor it is a right to make profit with land; it is limited to its use for communities and individuals feeding themselves and nurturing their cultures; it does not provide a right to far away land as the lands meant under the right to land are local.

The emergence of the right to land is particularly interesting to study because it highlights the role of transnational peasant movements as « makers of legal change »⁷⁰. Acknowledging the influence that the rights-based claims advanced by La Via Campesina activists have had on the various frames used by her organization, a member of the International Secretariat of FIAN, goes as far as arguing that: « the right to land itself could be the result of the interaction and mutual influence between the right to food network and the food sovereignty movement »⁷¹.

⁶⁶ O. DE SCHUTTER, « Access to Land and the Right to Food, Report of the Special Rapporteur on the Right to Food presented to the 65th General Assembly of the United Nations [A/65/281] », Geneva, United Nations, 11 August 2010, par. 43(d).

⁶⁷ O. DE SCHUTTER, *op. cit.*, *supra* n.66.

⁶⁸ FIAN, « Recognize land as a human right. Sellout of agricultural lands will aggravate food crisis », press release, Heidelberg, FIAN, 10 December 2009. See www.fian.org/news/press-releases/recognize-land-as-a-human-right-sellout-of-agricultural-lands-will-aggravate-food-crisis/?searchterm=access%20to%20land%20resources consulted on 29 October 2010.

⁶⁹ R. KÜNNEMANN et S. MONSALVE SUÁREZ, *op. cit.*, *supra* n.8, p. 132.

⁷⁰ B. RAJAGOPAL, *International Law from Below: Development, Social Movements, and Third World Resistance*, Cambridge, Cambridge University Press, 2003, p. 167.

⁷¹ Interview by the author, Heidelberg, 23 June 2009.

While it can be argued that UN Special Rapporteurs and international human rights organizations such as FIAN have defended a new right to land in response to social movements' claims, it is interesting to note that the institutionalization of a new « right to land and territory » (beyond the land component of the Declaration of the Rights of Peasants) has not been a priority for peasant movements. In order to defend access to land and control over territories, La Via Campesina has mostly sought to mobilize collective action repertoires⁷² that strengthen its ability to act as a social movement⁷³, rather than use institutional repertoires. The GCAR, for example, has not engaged with many institutions beyond some individuals and departments within the FAO and IFAD⁷⁴.

4. Non-Institutional Strategies: the Defense of Lands and Territories

While La Via Campesina has pursued the recognition of new human rights in international settings, the movement has also deployed the human rights framework in support of food sovereignty struggles at the local, sub-national and national levels. If some of these struggles seek to achieve institutional change⁷⁵, many LVC member organizations have, in recent years, deployed more oppositional and defensive strategies, in an effort to bring social change « from below ». Struggles to resist the appropriation of land and nature, protect biodiversity and seeds, promote agroecology⁷⁶, and develop alternative food networks⁷⁷ all place a strong focus on grassroots mobilization. These struggles are characterized by a strong distrust of the capacity of state institutions to produce social change, and by a preference for sub-political forms of action⁷⁸. They may be framed in human rights

⁷² Charles TILLY, *La France contestée*, Paris, Fayard, 1986.

⁷³ P. ROSSET and M. MARTINEZ, « Participatory Evaluation of La Via Campesina », The Norwegian Development Fund and La Via Campesina, 2005. See www.norad.no/ombistand/publikasjon/ngo-evaluations/2009/evaluation-of-la-via-campesina-lvc/ consulted on 8 July 2015.

⁷⁴ S. BORRAS, *op. cit.*, *supra* n.18.

⁷⁵ P. CLAEYS, « Via Campesina's Struggle for the Right to Food Sovereignty: From Above or From Below? », in *Rethinking Food Systems*, N. Lambek (ed.), Dordrecht, Springer Netherlands, 2014, p. 29-52.

⁷⁶ M. ALTIERI et al., « Agroecologically efficient agricultural systems for smallholder farmers: contributions to food sovereignty », *Agronomy for Sustainable Development*, vol. 3, 2012 (published online in 2011), n°1, p. 1-13; E. HOLT-GIMÉNEZ, « Linking farmers' movements for advocacy and practice », *Journal of Peasant Studies*, vol. 37, 2010, n°1, p. 203-236.

⁷⁷ H. RENTING et al., « Understanding alternative food networks: exploring the role of short food supply chains in rural development », *Environment and Planning*. Vol. 35, 2003, n°3, p. 393 – 411.

⁷⁸ J. SCOTT, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, New Haven, CT, Yale University Press, 2008.

terms, but are not necessarily geared towards the state as primary enforcer. Rather, their primary purpose is to « reclaim control » through a focus on alternative production and consumption practices. The following excerpt from the 2007 Nyéléni Forum provides a good insight into this increasingly resonant collective action frame :

« We will fight against the corporate control of the food chain by reclaiming control over our territories, production, markets and the ways we use food »⁷⁹.

A. Reclaiming Control over Lands and Territories

The concept of territory plays an increasingly important role in these multifaceted struggles aimed at reclaiming control. As expressed by this activist member of the Confédération paysanne in France: « How to reclaim our territories? Occupy the space? This is what is at stake »⁸⁰. The defense of territories has long been at the heart of indigenous peoples' resistance⁸¹. What is new is the growing resonance of the concept of territory within La Via Campesina – which includes several indigenous peoples' organizations –, and the food sovereignty movement at large. The recognition of indigenous peoples' « rights to their lands, territories and resources » in the 2007 UN Declaration on the Rights of Indigenous Peoples is likely to have created such a new framing opportunity. Indeed, legal developments often offer new frames for social movements to deploy⁸².

The notion of territory runs counter to the capitalist transformation of the local into a « non-place »⁸³. It helps rethink the organization of our food system in terms of interconnected territorial units. In Guatemala, where the World Bank uses « territorial restructuring » to facilitate control over land and labour and enable the development of extractive industries, indigenous acts of « territorial resistance » open spaces and places for « territorial sovereignty »⁸⁴. In the European context, the French term *terroir* describes a

⁷⁹ NYÉLÉNI FOOD SOVEREIGNTY FORUM, *op. cit.*, *supra* n.39.

⁸⁰ Peasant woman of the Confédération paysanne, speaking at the General Assembly of the Confédération paysanne which was held in Montreuil on 4 May 2010.

⁸¹ E. DAES, « Prevention of Discrimination and Protection of Indigenous Peoples and Minorities. Indigenous peoples and their relationship to land. Final working paper (E/CN.4/Sub.2/2001/21) », Commission on Human Rights, United Nations, 11 June 2001.

⁸² L. BERENI and V. CHAPPE, « La discrimination, de la qualification juridique à l'outil sociologique », *Politix*, vol. 94, 2011, p. 7-34.

⁸³ J. van der PLOEG, *The new peasantries: struggles for autonomy and sustainability in an era of empire and globalization*, London and USA, Earthscan, 2008, p. 269.

⁸⁴ E. HOLT-GIMÉNEZ, « Development Report No 16: LAND – GOLD – REFORM. The Territorial Restructuring of Guatemala's Highlands », Food First/Institute for Food and Development Policy, September 2007. See www.foodfirst.org/en/node/1770 consulted on 10 February 2014.

particular and vital relationship between a place or a specific region, quality products, producers and consumers⁸⁵. The territory embodies a story, the relationship to a place, a commitment to a social and cultural context, as exemplified by the use of the notion of territory in urban land rights struggles⁸⁶ and « right to the city » movements⁸⁷, GM-free regions⁸⁸ in Europe and elsewhere, or food standards developed from below⁸⁹.

Based on these different sources of inspiration, LVC is seeking to articulate notions of land and territory in a powerful frame that not only captures evolving peasant representations and practices, but also incorporates the ongoing struggles of other (potentially) allied social groups. The articulation of land and territory represents a challenge at numerous levels: the diversity of social actors and the various relations that different categories of land users have to land, territory and space; the important variations that exist across local, cultural and historical contexts; and the distinct levels of recognition of the rights of various groups in international human rights law. For example, the principle of free, prior and informed consent (FPIC) that has been recognized for indigenous peoples, is increasingly seized by other groups to defend their land against appropriation. The proposal to extend FPIC to rural communities⁹⁰ was made during the negotiations of Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forests, at the CFS, notably by the UN Special Rapporteur on the right to food. Yet, such a demand was not supported by indigenous peoples' representatives, who feared that this would weaken the implementation and defense of their granted rights.

Such an articulation will also need to move beyond the stereotypical connotations associated with land and territory. As shown by Sauer, territories tend to be associated with notions of self-determination and autonomy, whilst lands tend to be seen as productive resources. Yet, many lands have symbolic and social dimensions and are increasingly seen as central to achieving peasant autonomy, while not all territories are traditional nor free from exploitation for income generating purposes⁹¹. Similarly, the

⁸⁵ C. PETRINI, *Slow Food: The Case for Taste*, New York, Columbia University Press, 2001, p. 8.

⁸⁶ S. SAUER, « Land and Territory: Meanings of Land between Modernity and Tradition », *Agrarian South: Journal of Political Economy*, vol.1, 2012, n° 1, p. 85-107.

⁸⁷ D. HARVEY, « The right to the city », *New Left Review*, vol. 53, 2008, p. 23-40.

⁸⁸ See www.gmo-free-regions.org/gmo-free-regions/maps.html consulted on 7 July 2015.

⁸⁹ H. FRIEDMANN and A. MCNAIR, « Whose Rules Rule? Contested Projects to Certify "Local Production for Distant Consumers" », *Journal of Agrarian Change*, vol. 8, 2008, n°2, p. 408-434.

⁹⁰ The extension of the consent principle to other rural communities is also defended by human rights experts. See J. GILBERT, « The Right to Freely Dispose of Natural Resources: Utopia or Forgotten Right? », *Netherlands Quarterly of Human Rights*, vol. 31, 2013, n°2, p. 314-341.

⁹¹ S. SAUER, *op. cit.*, supra n.86.

use of the term « territories » tends to be associated with resistance, whereas a growing body of literature on land rights in Asia, where palm oil development has seriously encroached on indigenous land, shows that the « resistance-domination framework »⁹² is insufficient to analyze the complex dynamics at stake, including intra-community divisions, ambivalent relations towards the state, and eagerness of some community members to enter business ventures or reap the benefits of such opportunities⁹³.

The ongoing dialogue between peasants and various other rural constituencies has already generated a new conception of agrarian reform from a territorial (and food sovereignty) perspective. Such a conception seeks to ensure that agrarian reform does not truncate the rights of other users of the land, and emphasizes that the « purpose » of land and territory is « reconstructing and defending community ». A number of open questions still need to be addressed, however, such as how to confront patriarchy and how best to advance women's rights (through communal or individual land rights), which mode of tenure is best able to resist appropriation, and how to build self-determination and autonomy from that perspective⁹⁴.

5. Which Reference Frame for Future Land Struggles?

In recent years, LVC member organizations have faced the arrival of new issues on the international agenda, such as the food crisis, reinvestment in agriculture, climate change, and land grabbing. In this context, « land is becoming the new common denominator » (in the words of an activist from Habitat International Coalition interviewed at the 2009 World Summit for Food Security), and the « food sovereignty » frame needs to make more room for land rights issues. At the same time, the « right to agrarian reform » frame is losing resonance, despite efforts to give it a renewed meaning. As emphasized by a member of the Secretariat of FIAN International I interviewed, « farmer organizations increasingly use the concept of territory », especially in their « struggles against megaprojects », but « the concept of agrarian reform does not speak to indigenous peoples », especially as they « may be adversely affected by the redistributive land reforms »⁹⁵. The demand for agrarian reform seems less appealing and appropriate to the current context, although it remains important. As pointed out by Borras and Franco, land reform is primarily targeted at the

⁹² R. IDRUS, *op. cit.*, *supra* n.46, p. 100.

⁹³ K. BARNEY, « Re-encountering resistance: Plantation activism and smallholder production in Thailand and Sarawak, Malaysia », *Asia Pacific Viewpoint*, vol. 45, 2004, n°3, p. 325–339.

⁹⁴ P. ROSSET, *op. cit.*, *supra* n.17.

⁹⁵ Interview by the author, Heidelberg, 24 June 2009.

redistribution of already privatized resources, as in the case of the latifundia in Latin America. The contemporary wave of land grabbing, to the contrary, constitutes an attack on « non-private » lands, because they take place where the land has been redistributed (e.g. Brazil, Mozambique, the Philippines and India) or in areas that are not covered by private institutional arrangements (such as public or communal lands)⁹⁶.

Will LVC, which just celebrated its 20th anniversary, succeed in elaborating a new and potent frame for land struggles in the years to come? To resonate, this frame will need to manage the articulation of a) local, national and global struggles over the land, b) peasant, other rural, indigenous and urban claims on the land, and c) institutional and sub-political land struggles. Two broad categories of frames – food sovereignty and peasants' rights – appear to coexist at the moment, from which the future organizational frame for land struggles is likely to emerge. While it is difficult to anticipate the extent to which these frames will resonate with other constituencies engaged in agrarian struggles, it appears at this stage that both the « land sovereignty » and the « right to land » frames could potentially become powerful in the future, though for different reasons.

On one hand, the « food sovereignty frame », which has played a key role in the emergence and consolidation of the LVC movement, could evolve so as to further incorporate increasingly important land struggles. Efforts to link agrarian reform and food sovereignty have already been made, as illustrated by some frames used by the movement, such as « agrarian reform in the context of food sovereignty »⁹⁷ or « agrarian reform-based food sovereignty »⁹⁸. This frame could be invigorated by the proposal made by Borras and Franco⁹⁹ to frame land claims in terms of « land sovereignty » in order to unify demands (for example across North and South) and integrate the « notions of space, ecology, territory, identity and belonging in a way that is both sustainable and accounts for access to, use of, and control over land »¹⁰⁰. Such a frame could become influential if it

⁹⁶ S. BORRAS and J. FRANCO, « A « Land Sovereignty » Alternative ? Towards a Peoples' Counter-Enclosure », Discussion Paper, TNI Agrarian Justice Programme, Amsterdam, Transnational Institute, July 2012. See www.tni.org

⁹⁷ INTERNATIONAL PLANNING COMMITTEE FOR FOOD SOVEREIGNTY (IPC), « For a New Agrarian Reform based on Food Sovereignty! », Final Declaration of the « Land, Territory and Dignity » Forum, Porto Alegre, 5 March 2006. See www.foodsovereignty.org

⁹⁸ S. BORRAS, *op. cit.*, *supra* n.18.

⁹⁹ The authors place land sovereignty within the rights master frame. They define land sovereignty as « the right of working peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape ». See *op. cit.*, *supra* n.108.

¹⁰⁰ S. BORRAS et J. C. FRANCO, *op. cit.*, *supra* n.96, p. 6.

succeeds in incarnating what McMichael has called the « emergent ontology of land sovereignty » that is « dedicated to the restoration of natural and social rights to reproduce humanity adequately and ecologically », and, indeed, in taking us « beyond the era of nation-state building, where counter-movements were concerned with labour, gender, and civil rights in the modern state »¹⁰¹.

On the other hand, the « peasants' rights » frame could gain support and resonance within the movement and beyond, if negotiations on an International Declaration on the Rights of Peasants at the UN are seized as an opportunity to generate serious and wide-ranging public debate on control over natural resources. This frame could become particularly powerful if the emerging « right to land and territory » is recognized with the support of the human rights community as a human right. Not only could the right to land and territory embody the symbolic meanings carried by La Via Campesina's « right to produce » and FIAN's « right to feed oneself », but it could also establish itself as a way for local and national movements engaged in struggles to defend and control lands and territories, to re-establish a political limitation on « absolute private property »¹⁰².

6. Conclusion

Access to land has been at the heart of La ViaCampesina's struggles over the last two decades. To resist the appropriation of land and nature, the movement has claimed a new human right to land and territory, both at the grassroots and in international settings. It has deployed the right to land as a collective action frame in local struggles, and sought to make it relevant to various and evolving contexts, movement activists and potential allies. The movement has also pursued the recognition of land as a human right at the UN, demonstrating its ability to create legal opportunities and act as maker of legal change.

By engaging in the very definition of human rights, LVC and other agrarian movements are calling for an inclusive public deliberation on the future of the peasantry and the allocation of natural resources. In so doing, they insist that the value of human rights lies not in their supposed universality but in their very contestability: only through global public dialogue can we make sure that human rights are relevant¹⁰³, and can be

¹⁰¹ P. McMICHAEAL, *op. cit.*, *supra* n.59, p. 50, p. 52.

¹⁰² L. VERGARA-CAMUS, *op. cit.*, *supra* n.4, p. 1153.

¹⁰³ N. WHITESIDE and A. MAH, « Human Rights and Ethical Reasoning: Capabilities, Conventions and Spheres of Public Action », *Sociology*, vol. 46, 2012, n°5, p. 921-935.

considered universal¹⁰⁴. They also remind us that, if the contribution of epistemologies from the South is crucial to the reconfiguration of human rights « from below »¹⁰⁵ such a reconfiguration needs to account for ongoing social struggles over rights and resources¹⁰⁶.

¹⁰⁴ Building on Amartya Sen, Whiteside and Mah argue that human rights have claims to universality only if they survive public scrutiny and discussion. See N. WHITESIDE and A. MAH, *op. cit.*, *supra* n.103, p. 924.

¹⁰⁵ B. RAJAGOPAL, *op. cit.*, *supra* n.70 ; B. DE SOUSA SANTOS and C. RODRÍGUEZ-GARAVITO, *Law and Globalization from Below: Towards a Cosmopolitan Legality*, New York, Cambridge University Press, 2005.

¹⁰⁶ P. NEWELL and J. WHEELER, *Rights, Resources and the Politics of Accountability*, coll. Claiming Citizenship, London and New York, Zed Books Ltd, 2006.