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**Localizing the Human Rights Council:**

**A Case Study of the Declaration on the Rights of Peasants**

## **Abstract**

The Human Rights Council (HRC) can enact and proclaim global human rights standards. To date the impact of local communities on such international standard-setting remains unclear. This study analyses how local communities gain access to the HRC's mechanisms and investigates whether standard-setting "from below" has been taken up by the HRC. As a case-study the research studies the trajectory of the network of organizations that have lobbied for a Declaration on the Rights of Peasants at the HRC.

## 1. INTRODUCTION

*‘All victims of human rights abuses should be able to look to the Human Rights Council as a forum and a springboard for action.’*

*(Ban Ki-moon, UN Secretary-General, 12 March 2007, Opening of the 4th Human Rights Council Session)*

In its resolution establishing the HRC, the UN General Assembly acknowledges that NGOs play an important role in the promotion and protection of human rights at the national, regional and international levels, and that the HRC needs to work in close cooperation with civil society. Yet, notwithstanding these and other affirmations such as the above quote of the UN Secretary-General, the HRC is not created in order to accommodate local concerns. As we shall illustrate, the various mechanisms allow the formal participation of civil society and other stakeholders in their work. Yet, they remain largely observers in a State-driven HRC.

This study aligns itself with the normative position that human rights need to be locally relevant in order to be useful in addressing the negative effects of globalisation at the local level. De Feyter, who has developed the localizing theory, has indicated that a ‘local infusion’ into human rights can occur in two ways, by giving or interpreting locally relevant content into existing human rights treaty norms but also by developing the law in a way that will improve its local effectiveness.<sup>1</sup> In this study we analyse the latter option and seek to ascertain whether or not local human rights issues and struggles can be incorporated into the work and normative output

of the Human Rights Council (HRC). We do not address how international norms get translated to a local context.

In what follows we will first discuss the localizing human rights theoretical framework (section two). In section three we illustrate some of the specific challenges that local organisations are facing when seeking to participate in the HRC. Subsequently, in our case-study we describe the trajectory of the Declaration of Rights of Peasants - Women and Men (hereinafter Peasants' Rights Declaration or Declaration on the Rights of Peasants) at the Human Rights Council (section 4). In this section we highlight how a network of actors was able to set the rights of peasants on the agenda and how the HRC came to the decision of creating an open-ended intergovernmental working group to negotiate a UN Declaration on the rights of peasants and other people working in rural areas.

Tracing back the trajectory of a standard-setting process is not a straightforward task. The various actors involved have 'partial and often quite personal perceptions of their role and that of their institutions [and] these difficulties are only increased because most standards are adopted after many years of work, involving contributions by numerous different actors and institutions' (International Council on Human Rights Policy 2006: 6).

The data for this report have been taken from a literature review. Such method appeared satisfactory for the limited goal of uncovering the trajectory of the issue of the rights of peasants from the local to the global. Nevertheless, some field research was performed as the researcher attended the first open-ended working group (OEWG) on the Declaration of the Rights of Peasants in July 2013 in Geneva. No formal interviews were conducted but the researcher has consulted key persons involved in the campaign.

## **2. LOCALIZING HUMAN RIGHTS**

### **2.1. BACKGROUND**

It is useful to situate our research in some of the broader debates in the field of human rights and non-State actors. The proliferation of non-State actors in international relations and law has led to a vast body of scholarly work on the role and impact of these actors. Scholarship in the field of international law has focused on a range of non-State actors, including armed opposition groups, corporations such as private security organizations and civil society organizations such as non-governmental organizations (NGOs). One aspect within this growing body of literature on non-State actors is the influence these actors have on standard-setting or law-making in international law, and in particular in international human rights law. Such impact flows from the fact that some of these non-State actors, particularly civil society actors (ranging from local groups to international NGOs), can participate to a great extent in international institutions. Although these actors do not have an overall right of participation, there is no doubt that today there is a general understanding and practice that civil society actors are to be included in international deliberative processes as observers or consultative parties. Although in theory States could set standards without consulting civil society actors, in practice this is not the case. Scholarly work has compellingly demonstrated that international law making processes have become less exclusive (see e.g. d'Aspremont 2011; Noortmann and Ryngaert 2010). Yet, the question remains to what extent these actors actually influence norm-setting processes. Several studies have considered the impact of international NGOs on the development of international human rights norms (see e.g. Breton-Le Goff 2011; Türkelli et al. 2013; Vandenbogaerde and Vandenhoele 2010). Such studies have demonstrated that while NGOs are effective 'agenda-setters' for the development of new

norms, States remain the ultimate ‘law-makers’. Important to note in the context of this research is that notwithstanding this thriving field of study the focus has been confined primarily to NGOs as civil society actors. Less attention has been paid to the role and impact of local groups in international standard-setting. Can they also move from the local to the global in order to push for new norms?

In this regard the international drafting process of the 2007 United Nations Declaration on the Rights of Indigenous Peoples could be considered path-breaking. Indigenous peoples were not merely consulted, but actively participated in the drafting of this legal instrument. According to some, the principle that ‘people who are the subject of a rights document are entitled to participate in its framing’ has gained recognition in this process.<sup>2</sup> Another example is the extensive participation of victims of landmines in the drafting of the Ottawa Convention banning anti-personnel landmines (Anderson 2000; Cameron et al. 1998; Short 1999), or the participation of disabled persons (as persons directly affected) in the drafting of the Convention on the Rights of Persons with Disabilities.<sup>3</sup> These examples demonstrate that persons or local groups *participated* in the drafting of a new instrument. Yet, there are few cases documented where the origins of a new instrument or standard can be traced back to a local or grassroots organization. One potential explanatory factor is that the study of social movements has not received much attention in human rights research (Rajagopal 2011; Stammers 1999). As plausible reasons for such neglect Rajagopal and others have pointed to the limited transformatory potential of the human rights discourse, and the fact that social movements often challenge the current state-centric discourse.<sup>4</sup>

An additional potential explanatory factor for the relative absence of documented cases may be that it is naïve to assume that local groups are aware of institutions such as the HRC, let alone

that they regard the HRC as an effective forum to voice their claims. In other words, the lack of documented cases may be caused by the fact that local groups do not even attempt to address the HRC. The HRC does not address singular or local issues, but is rather concerned with matters that affect a large number of individuals around the world. Vandenhoe has argued earlier that local groups or communities will normally not be interested in influencing international standard-setting in order to obtain beneficial effects.<sup>5</sup> Furthermore, even if there is a will to do so, the sustained long-term lobbying at the international level is admittedly not a role local organizations are able, or willing to play. Edelman has indicated in 2003 that many organizations have withdrawn from the international arena since tending to local, national and international demands became too demanding.<sup>6</sup> In other words, why should local groups invest their scarce human and financial resources in mechanisms that are not designed to offer redress at the local level?

In sum, the user perspective of this research may thus start from a questionable or even untenable premise, i.e. that local or grassroots organizations/communities believe it may be useful to bring their claim to the international level. Local organizations or communities may well find that the challenges of approaching the HRC (in particular human and financial resources, see *infra* section 3) outweigh the opportunities or benefits.

## **2.2. LOCALIZING HUMAN RIGHTS**

It is at the local level that human rights act as a line of defence, and consequently prove to be vital or illusory.<sup>7</sup> Consequently, the idea of ‘localizing human rights’ as developed by De Feyter and others finds that human rights law needs to be developed in accordance with the human rights needs as defined by local groups. Baxi believes such communities and peoples to be the



principal drafters of international human rights (Baxi 2002). Such so-called ‘discursive approaches’ to human rights ‘assume that social practice is, in part, constitutive of the idea of human rights itself, rather than simply the testing ground on which the idea of universal human rights encounters actual ethical or legal systems’.<sup>8</sup> Ife takes on a more extreme position as he argues that the fact that human rights remain largely a discourse of the powerful over the powerless is a violation of one’s human rights, namely the right to define one’s rights.<sup>9</sup> De Feyter has rather defined localization as: ‘taking the human rights needs as formulated by local people (in response to the impact of economic globalization on their lives) as the starting point both for the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all levels ranging from the domestic to the global’.<sup>10</sup>

Localization can thus occur in two ways and Oré Aguilar describes localization fittingly as a ‘two-way highway’.<sup>11</sup> We can discern a process whereby human rights get translated and used into local struggles, as well as a process whereby local human rights claims are transformed into global norms - or at least influence their creation. An inclusive drafting or creation process of international norms enhances the chances of effectiveness of these norms (although such an inclusive process is arguably not a necessity).

Leaving aside the problem of defining the ‘local’ and the ‘global’, both levels should certainly not be understood in a strict binary fashion. They cannot be separated: in today’s society there is hardly any longer a ‘purely’ local context. Global economic and political structures shape decision-making at the national and local levels and therefore the latter always contain elements of the global. Whatever the desirability of that development, the point we want to make here is that both levels are to be attended to. As Ife indicates: ‘any understanding of human rights cannot afford to ignore either the local or the global’.<sup>12</sup> A return to clearly identified local contexts as

the basis for human rights is not possible, as these demarcated local contexts do no longer exist (Ife 2010). Localization should therefore not be understood as a call to romanticize the local over the global.<sup>13</sup>

According to Oré Aguilar local communities can be understood as groups that are united by common needs and interests and that are based at the level of a geographical community.<sup>14</sup> Yet, local groups can also ‘be rooted in a common experience, such as the sharing of a similar status within society’.<sup>15</sup> The local groups in this research are the peasants who suffer from human rights abuses or are at risk of being so. The starting point is the group or organization of peasants that has started to claim rights on behalf of its members. Desmet has proposed the term ‘direct (or primary) users’ to describe ‘individuals, groups of individuals, organisations or institutions who engage with human rights in an immediate way: they invoke human rights to prevent or stop a violation of human rights, or they give effect to human rights’.<sup>16</sup> One of the two categories under these direct users are the ‘rights claimants’. These are the ‘individuals, groups of individuals and legal persons who invoke human rights in relation to their own situation. Rights claimants will often invoke human rights that are already more or less firmly recognised in international human rights *law*. They may, however, also allege a threat to or a violation of human rights in a way that does not seem to be supported by the current state of human rights law. Their struggles may then result in changes in or evolutionary interpretations of human rights law’.<sup>17</sup> In our case study these rights claimants are united in SPI at the national level, and in La Via Campesina at the international level. Serikat Petani Indonesia (SPI – Indonesian Peasants’ Union), an Indonesian member of La Via Campesina, has spearheaded the adoption of the Declaration on the rights of peasants. SPI was founded through the establishment of peasant organizations at the local or village level in the mid-1980s in Indonesia (Lucas and Warren 2003: 102; Purwanto 2013: 1-2).

La Via Campesina is a transnational organisation that unites peasants and family farmers in a structured and representative movement. La Via Campesina was founded in 1993, against the backdrop of mounting anti-GATT protests in Europe, Asia, and the Americas (for a detailed history of the origin of La Via Campesins see: A.-A. Desmarais 2002; A. A. Desmarais 2007; Edelman 2003: 204). The member organizations of La Via Campesina are highly heterogeneous (Borras Jr 2004: 9), but do share a common international outlook that is shaped by their individual experiences. De Feyter has argued that the grounding of human rights norms in local experiences and realities brings along more efficiency and gives ‘the human rights movement the opportunity to emphasize similarities between the challenges facing different communities, while at the same time respecting and acknowledging local differences’ (De Feyter 2006: 13). Such form of ‘unity in diversity’ is exactly the approach of La Via Campesina in its work. The members are united in their opposition to neoliberal globalization and the agricultural policies and agribusinesses that surge from such vision (Claeys 2013b: 1).

The direct claimants such as SPI are not the only actors involved in the processing of localizing human rights. The initial hypothesis of the localizing perspective is that there are four essential partners for a bottom-up approach to human rights: community based organizations, local human rights NGOs, international human rights NGOs and allies in governmental and intergovernmental institutions.<sup>18</sup> Yet, also other actors such as the media or academics can prove to be of importance for raising an issue to the national and international level.<sup>19</sup>

The research therefore also includes the other relevant actors or network of actors that supported SPI and La Via Campesina in bringing their claim forward (the ‘supportive users’, Desmet 2014). There are a host of organizations that have been involved in lifting the issue to the HRC. Merry describes these intermediaries (NGOs, community leaders...) as ‘knowledge brokers’, and finds

that ‘these are people who understand both the worlds of transnational human rights and local cultural practices and who can look both ways’.<sup>20</sup> In our study the main knowledge brokers are La Via Campesina, academics, the international NGOs such as CETIM or FIAN International, the UN special procedures and the UN Advisory Committee. The establishment of such network does not happen automatically and involves strategic choices between the social movements and the international NGOs (see *infra*). Such a network between social movements and other organizations has been termed a ‘transnational advocacy network’ (Keck and Sikkink 1998). Yet, what distinguishes transnational advocacy networks in a localizing process is that the agenda of the network is set by the human rights experiences of the local partners in the network.<sup>21</sup> In our case study, SPI and La Via Campesina were able to have a real and fundamental ownership of the process.

### **3. GAINING ACCESS TO THE HUMAN RIGHTS COUNCIL: CHALLENGES**

During the UN reform period in the mid-2000s there were renewed attempts of States to curtail the participation of civil society in the work of the future Human Rights Council. Yet, these attempts were defeated, and participation by civil society remains largely based on the former Commission on Human Rights’ resolutions and practices on NGO participation.<sup>22</sup> In practice, attempts to limit the participation of civil society in the UN are ongoing.<sup>23</sup> We can identify four general challenges that local organizations may face when seeking access to the HRC: lack of Economic and Social Council (ECOSOC) consultative status, lack of financial and administrative resources, an absence of expertise, and a lack of political space or existence of reprisals.

A first significant challenge is obtaining ECOSOC status. NGOs need such accreditation from ECOSOC to participate in the Human Rights Council. The UN Committee on Non-Governmental Organizations, the body which approves such status, has received much criticism. This Committee is not an independent body: States control it and State interests thus shape its policies. The accreditation process is first of all slow (at least two years), but more importantly not very transparent. Many NGOs and civil society organizations are for example being refused access under the pretext of ‘misbehaviour’, because they hold views States do not agree with. Non-accredited organizations that decide to take their issue to the Human Rights Council will have to liaise and partner with already accredited organizations to gain access to the HRC. La Via Campesina for example has no ECOSOC consultative status and therefore needs to liaise with organizations that have such a status in order to participate in the UN. The need for ECOSOC status can thus be a barrier for movements when they either fail to receive ECOSOC status or fail to find support with organizations that enjoy such ECOSOC status (due to opposite strategies on an issue for example). Also, ECOSOC resolution 1996/31 does not refer to local organisations but to national, subregional, regional or international organisations. Moreover, these organisations have to demonstrate that their work is of direct relevance to the aims and purposes of the UN. This is perhaps not easy to prove if you are a local and single-issue civil society organisation.<sup>24</sup> The implications of not having such status are thus important for the localization process. It must be noted, however, that non-accredited organizations do have some possibilities to attempt to influence the HRC. They can provide written submissions to the Universal Periodic Review sessions, participate at the Social Forum or liaise with the HRC’s various Special Procedures.

In addition to the need for ECOSOC status, organizations may face obstacles in terms of financial, administrative and human resources when they decide they want to approach the Human Rights Council and its mechanisms (see e.g. Merry 2009: 53-55; Nader 2007). Some of these challenges are quite basic such as securing the funds to get to Geneva or getting a travel visa, but they are difficult to overcome for small, local organizations around the world.<sup>25</sup>

A third challenge is the lack of expertise. The organizations that use the HRC mechanisms should be highly professional, as considerable expertise is needed to use these channels effectively. Local organizations will therefore typically gain access to the Human Rights Council through international NGOs with a presence in Geneva. Geneva-based accredited NGOs are organizations that have greater expertise in engaging with a complex and political institution such as the HRC and they can offer some resources to local organizations. The need to liaise is thus not inherently problematic yet there are some drawbacks (see hereunder in this section).

The last challenge concerns reprisals against local groups. The local groups are only the first link in the chain and will often need to rely on specialized NGOs to access the international level, in particular when the State is limiting the action of NGOs at the domestic level. The High Commissioner for Human Rights, Navi Pillay, has expressed her concerns about the intimidation of organizations by State authorities in Geneva (or at the country level). Since any (formal) activity within the HRC is in the public domain, organizations such as the NGO Group for the Convention on the Rights of the Child (CRC) tend to ask if a local NGO would be willing to submit information/deliver oral statements under its name. This way one avoids mentioning the local organization while still raising the issue. We thus find that besides the limitations in terms of resources and knowledge, the ability of local organizations 'to apply this [human rights] framework is greatly dependent on the political situation in the country and to what extent the

powerful respect the rule of law and democratic control'.<sup>26</sup> In our case study, for example, SPI was only able to bring its claims forward and discuss human rights openly at the national and international level after the fall of the military government in Indonesia.

In sum, the above confirms that local organizations will have to rely on organisations at the international level to bring their issue forward. Cooperation between the various organizations is essential for a localization process to occur; it is indeed a key premise of the localizing approach.<sup>27</sup>

There are obvious drawbacks of being dependent on other organizations. First of all, the possibility exists that no international NGO is interested in liaising and working together with local groups (be it for substantive or practical reasons). In our case study, La Via Campesina received crucial support from several NGOs, in particular FIAN International and CETIM. But what these NGOs would not have been there? While it may be implausible that La Via Campesina would not have found other allies, it demonstrates the importance of having either ECOSOC consultative status or being well connected with international NGOs. Secondly, finding common positions between the local and specialized (Geneva based) organizations may be difficult. Local groups may have very specific issues they want to address while the larger and more mainstream organizations tend to focus on general/structural issues. The various organizations may differ on which strategy to use to tackle a human rights issue. The power imbalances and absence of a level playing field between the local and international organizations may add to the difficulty of cooperation. Organizations acting in concert will often balance between autonomy and dependence and in various instances transnational networks have been dissolved due to tensions within the network.<sup>28</sup> Such tensions do not exist solely between NGOs and movements but can also arise within movements. During the foundational years of La Via

Campesina for example, there was much debate about the inclusion of different organizations. Questions arose about the inclusion of one of the biggest farmer organizations as well as international NGOs because some feared this would compromise the policy space of the members.<sup>29</sup>

#### **4. CASE STUDY: THE ROAD OF THE DECLARATION ON THE RIGHTS OF PEASANTS**

##### **4.1. LA VIA CAMPESINA'S DECLARATION ON THE RIGHTS OF PEASANTS**

The idea of peasants' rights was driven first and foremost by Serakat Petani Indonesia (SPI – Indonesian Peasant Union), an Indonesian member of La Via Campesina. The farmer organization worked towards developing a Peasants' Rights Charter through a series of meetings and seminars with peasant communities.<sup>30</sup> In these meetings, peasants asked themselves what all the rights talk around them meant for them.<sup>31</sup> In 2001, the movement approached the National Human Rights Commission in order to support their initiative and organise a 'National Conference on Agrarian Reform to Protect and Implement the Rights of Peasants'. At the conference, a 'Declaration on the Fundamental Rights of Peasants' was adopted. This declaration can be considered a milestone, as previously the peasant struggle had always suggested short-term, non-structural demands as a response to problems faced by peasants.<sup>32</sup> The declaration contained sixty-seven rights, such as the right to land or the right to access to natural resources.<sup>33</sup> This declaration served as a prototype for the first attempt of La Via Campesina to draft a declaration on the rights of peasants.<sup>34</sup>

When faced with the fact that international institutions, in particular the World Bank, were influencing the fate of the Indonesian farmers, SPI understood the necessity to undertake international action.<sup>35</sup> From 1993 onwards, the movement started to contact organizations outside of Indonesia. One of the former leaders of the SPI has explained that 'we learned from below, not [from]



theory, the everyday problems of people. We learned that land is the key struggle in the world, that the system is designed for the rich, and that what was happening in Indonesia was part of a global, structural problem' (Vidal 2013). This illustrates the sort of 'boomerang pattern' described by Keck and Sikkink (Keck and Sikkink 1999), where access to the international level is sought to induce change at the national and local level. The difference here is that the organizations seek something more than compliance, they want to shift the norms themselves.<sup>36</sup>

It was believed imperative that an organization like La Via Campesina which draws on real life experiences and expertise drafts and proposes legislation which is truly meaningful to the peasant and small farmer.<sup>37</sup> There was thus a belief that existing human rights law did not sufficiently address the challenges peasants were facing (i.e. there is a normative gap) but also that human rights could be advantageous in advancing their struggle. It was also a strategic choice to adopt the human rights language. It has been noted that 'there is a sense that the process of institutionalization [the recognition of peasants' rights by the UN] itself can be a good opportunity for mobilization, movement building, and inter regional dialogue and consensus building'.<sup>38</sup> Political mobilisation appears a crucial goal, as members of La Via Campesina are aware that the adoption of the Declaration will not deliver immediate change at the local level.

In 2002, a draft Declaration on the Rights of Peasants, based on the Declaration of SPI, was presented at the La Via Campesina regional conference in Jakarta (Via Campesina 2002). The 2002 Declaration contained ten main articles which contained in turn numerous provisions.

This was the start of a six-year long process of discussion within and amongst member organizations of La Via Campesina. During that period La Via Campesina also worked with FIAN International on monitoring and reporting violations of peasants' rights and participated at the UN Human Rights Council. FIAN International is an NGO, based in Germany, that works to

promote and protect the right to adequate food around the world. In 2008, a working group composed of members of the La Via Campesina Human Rights Commission as well as Indonesian and European lawyers affiliated with human rights NGOs, including advisors of the Human Rights Council Advisory Committee, met in Bilbao to rewrite the 2002 draft Declaration ‘to make it legally, politically and stylistically more compatible with existing international law’.<sup>39</sup> La Via Campesina’s Human Rights Commission submitted a reworked Declaration to its members at the International Conference on Peasant Rights in Jakarta in June 2008. During the International Conference of La Via Campesina in Maputo in October 2008, the members formally adopted the text. The International Coordinating Committee in Seoul then adopted the final text in March 2009. This final text contains structural modifications and some additions compared to the SPI draft such as the inclusion of a definition of peasants (see Edelman 2013), but its substantive provisions have been largely left unchanged.

#### **4.2. AT THE HRC: WORKING WITH NGOS AND THE UN MECHANISMS**

Addressing the HRC is arguably most relevant if organizations want to amplify their claims in an overall strategy for change at the national and international level (especially if their State is sensitive to international scrutiny). Such attention for the national or international level is certainly warranted if we consider that today the local cannot be separated neatly from the global anymore (and vice versa). Local struggles will most often contain global or international elements. International policies and decisions – decisions ‘from above’ if you wish – influence the enjoyment of human rights at the local level. One thus needs to conclude that, ideally, local organizations should attend to all levels in their struggles. In order to do so they will have to partner with other organisations.

Yet, as indicated in section three, the need to network with other organisations at the international level may cause tensions between the different actors. When La Via Campesina entered the international arena, tensions would surface time and again between the movement and other NGOs (A. A. Desmarais 2007: 93). La Via Campesina refused, for example, to sign the NGO Declaration at the 1996 World Food Summit. They argued that the document did not address or reflect the concerns of peasant families. La Via Campesina was sending a clear message according to one commentator: NGOs could no longer speak ‘on behalf of’ or ‘as representatives of’ peasants and farmers, nor decide solely on what would be said regarding peasants (A. A. Desmarais 2007: 101). Notwithstanding the initial tense relations between La Via Campesina and NGOs (Desmarais 2007), the movement was in need of the research and lobby activities of NGOs at the international level. In 1999, La Via Campesina started a global campaign on agrarian reform with FIAN, an international NGO with national sections that has been documenting violations of peasants’ rights since the end of the 1980s. One of the successes of this campaign was that agrarian reform was henceforth linked to the human rights of peasants (Borras Jr 2004: 26; see also in general Coomans 2006).

Some of the very first actions at the UN level occurred in concert with FIAN and the Geneva-based NGO CETIM (Centre Europe – Tiers Monde) in 2001 (see *infra*).<sup>40</sup> CETIM is a research and publication centre devoted to North-South relations. They are very active at the UN and want to serve as a clearing house for social movements of the Global South and North.<sup>41</sup> In general, the mechanisms of the Human Rights Council allow civil society and other stakeholders to participate in their work. These organizations can submit written comments as well as orally intervene in the sessions of these mechanisms. In addition, they can organize and speak in the side-events which are typically organized around meetings of the Human Rights Council.

Cooperation of international NGOs with ECOSOC accreditation is essential however as most local organizations such as SPI do not have such accreditation. In our study, La Via Campesina was easily taken in the delegation of an accredited NGO based in Geneva (CETIM). Yet, this might not always be so easy. What if the movement would have had different strategies and positions from the NGOs in Geneva? In addition, other challenges to access the HRC are lack of resources and/or expertise, and possible reprisals from States. These challenges often oblige local organizations to network with international NGOs based in Geneva. Consequently, international NGOs function still very much as gatekeepers as local organizations typically have no direct access to the international level.

The collaboration between La Via Campesina functioned well. In 2001, La Via Campesina and CETIM issued a joint statement on peasants' rights before the now defunct UN Commission on Human Rights. In their statement they urged the Commission to enact a convention on the rights of peasants since 'peasants and small farmers are the rightful guardians of a rich, diverse and unpolluted environment and as such there should be special legislation, which enshrines and protects the rights of peasants and small farmers'.<sup>42</sup>

In 2002, La Via Campesina used the first meeting of the Social Forum of the Human Rights Council to voice its concerns about peasants' rights. SPI was active at the Social Forum as a member of La Via Campesina. NGOs, such as FIAN and CETIM participated in support of the peasant struggle. The organisations also started working through other UN mechanisms and so broadened the network of supportive actors at the UN.

The Human Rights Council Advisory Committee and the Special Procedures are the two most relevant HRC mechanisms for localizing human rights and, as we will explain below, both were

key in the peasants' rights initiative. These mechanisms can namely support and push for new standard-setting.

The Commission on Human Rights had developed an extensive web of Special Procedures in the form of thematic and country-specific special rapporteurs/independent experts, as well as Working Groups. While the country specific procedures can focus on all relevant issues (all the substantive rights, civil and political as well as ESC rights) in one specific country, the thematic procedures focus on one specific issue or right across all countries. Moreover, the Special Procedures can address human rights situations at the global, country and local level. Biglino and others have argued that the abilities of Special Procedures equips them 'with a rather unique opportunity to bridge normative work and practical, operational aspects concerning the implementation of human rights "on the ground"'.<sup>43</sup> Through their country visits thematic procedures can for example learn from local communities and local NGOs in order to detect gaps in the global protection system.<sup>44</sup> Special Procedures offer the possibility for civil society to advance their issues, including the need for new norms and standards. They are easily accessible and usually have mandates that allow them to support and propose new standards. At the same time, Special Procedures are an 'unstable' channel as their helpfulness for civil society heavily depends on the expertise and willingness of the individual mandate holder. In addition, although the Special Procedures are part and parcel of the Human Rights Council they have time-limited mandates and do not cover all rights and/or potential human rights issues. This means that a push for new norms or standards must be able to be accommodated within an existing mandate. La Via Campesina was able to connect their issue relatively easy to the right to food but it may not always be so straightforward. The former Special Rapporteur on the right to food, Jean Ziegler, dealt extensively with the issue of agrarian reform in one of his reports to the General Assembly

in 2002. The SR expressed support for the concept of food sovereignty as defined by La Via Campesina and indicated the importance of social movements for bringing the issue of land reform into the spotlight.<sup>45</sup> The SR played an important role in highlighting the issue of land reform to the UN Commission on Human Rights. The content of his report shows that the SR had a favourable stance towards La Via Campesina, FIAN and other civil society organizations. Later, he also took such a stance as a member of the Human Rights Council Advisory Committee (see further in this section).

During the abovementioned campaign on agrarian reform, La Via Campesina and FIAN worked together to produce reports on the violations of peasants' rights (see e.g. FIAN International and La Via Campesina 2004, 2005; La Via Campesina and FIAN International 2006). They also lobbied international institutions and developed an emergency network to respond in case of human rights abuses. The organizations also started using the State reporting procedure under the ICESCR to advocate for the rights of peasants.<sup>46</sup> SPI, through La Via Campesina, supported this work and provided numerous cases of violations in Indonesia.<sup>47</sup> The annual reports of La Via Campesina and FIAN were presented at side-events of the UN Commission on Human Rights in 2004, 2005 and 2006.<sup>48</sup>

It was not until 2008 that the UN started to respond more seriously to the plight of peasants. The Human Rights Council Advisory Committee (Advisory Committee) replaced the former Sub-Commission on the Promotion and Protection of Human Rights and is made up of eighteen independent experts. The Advisory Committee functions as the think tank for the Human Rights Council. Today, the Advisory Committee has several ongoing initiatives that put forward 'new' standards and instruments (e.g. right to peace). The Advisory Committee provides generous access to civil society. NGOs in consultative status with ECOSOC are entitled to participate in

the official meetings of the Advisory Committee through written and oral statements. In order to produce its studies, the Advisory Committee typically forms drafting groups consisting of four or five of its members. These drafting groups appear particularly accessible for NGOs and other stakeholders such as local organizations (see *infra*).

The creation of the Human Rights Council and its Advisory Committee, as well as the work of the then newly appointed Special Rapporteur on the right to food, Olivier De Schutter, proved to be windows of opportunities for initiating more substantive debates.<sup>49</sup>

In addition, the global food crisis of 2008 heightened the attention for (small-scale) peasants even more. At that juncture of time, the situation of peasants started to worsen as a result of the increasing appropriation of land or land grabbing, leading to evictions of peasants from their land, the appropriation of seeds, and large-scale biofuel projects. Similar to the food crises in the 1970s and 1990s, the international community was called to respond and the various UN institutions and civil society actors working on hunger delivered statements on the root causes and solutions for the crisis. La Via Campesina presented the recognition of the rights of peasants as one solution to the agrarian crisis. Only three weeks into his mandate as a SR on the right to food, Olivier De Schutter was able to convince the Human Rights Council to hold a Special Session on the food crisis.<sup>50</sup> On this and other occasions the SR on the right to food recognized the need to address the concerns of small-scale farmers (see e.g. De Schutter 2008, 2009).

After the 2008 Special Session, La Via Campesina, CETIM, FIAN and other NGOs issued a joint statement in view of a High Level Conference on World Food Security and the Challenges of Climate Change and Bioenergy at the FAO some weeks later. The organizations *inter alia* requested ‘the HRC to investigate the issue of peasant rights, as already mentioned by the former Special Rapporteur on the Right to Food, by mandating its advisory committee to conduct a first

study to better identify the needs for specific entitlements of peasants as one of the most vulnerable groups to HR and right to food violations as well as to identify gaps in the protection of these rights and entitlements, and concrete proposals to address and redress these gaps'.<sup>51</sup>

In its resolution 7/14, the Human Rights Council emphasized 'that 80 per cent of hungry people live in rural areas, and 50 per cent are small-scale farm-holders, and that these people are especially vulnerable to food insecurity'.<sup>52</sup> In accordance with this resolution, the Advisory Committee was requested to focus on the enhancement of the realization of the right to food. At its first session in August 2008, the Advisory Committee therefore established a drafting group on the right to food (drafting group), including the former SR on the Right to Food, Jean Ziegler, as well as the former president of the Social Forum, José Bengoa (Human Rights Council Advisory Committee, UN Doc. A/HRC/AC/2008/1/2, 2008). During that session, CETIM and La Via Campesina organized a press conference and a public debate on a Convention for the Rights of Peasants. On behalf of La Via Campesina, CETIM intervened orally during the session of the Advisory Committee and stated *inter alia* that they would 'seek the support of governments, parliaments and human rights institutions for developing the convention on Peasant Rights'.<sup>53</sup>

The drafting group suggested to the Advisory Committee to conduct a study on the rights of peasants and the Advisory Committee submitted this proposal for approval to the Human Rights Council.<sup>54</sup> At the Human Rights Council, there was a lively debate on whether such a study should be undertaken. Several Latin American States were in favour of tasking the Advisory Committee with a study on the global food crisis and the rights of peasants, but other, particularly Western, States opposed such a study.<sup>55</sup> In the end, the Human Rights Council struck a compromise between proponents and opponents by requesting 'the Advisory Committee to undertake a study on discrimination in the context of the right to food, including identification



of good practices of anti-discriminatory policies and strategies’.<sup>56</sup> Such a general request did not demand, but certainly allowed the Advisory Committee to discuss the discrimination peasants were facing.

At the Advisory Committee’s third session in August 2009, Jean Ziegler and his team (Christophe Golay and Claire Mahon) presented a background paper as a contribution to the study requested by the Human Rights Council. This paper, entitled ‘Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation’, described the discrimination farmers faced around the world (Ziegler et al. 2009). It also included a large section recounting the birth and work of La Via Campesina, including the concept of food sovereignty and the recent adoption of a Declaration on the Rights of Peasants.<sup>57</sup>

In January 2010, at the fourth session of the Advisory Committee, the drafting group presented its report on discrimination in the context of the right to food. La Via Campesina was also able to intervene in this session, and urged the Advisory Committee to undertake further standard setting on the rights of peasants.<sup>58</sup> The drafting group on the right to food was very open to the input of organizations and individuals working on peasants’ rights. It took into account the local or grassroots experiences when proposing the new standards and as such accommodated standard-setting initiatives from below. In annex to their report the drafters attached La Via Campesina’s Declaration on the Rights of Peasants. The Advisory Committee adopted the report and its conclusion, which read as follows: ‘one of the most important new developments in the protection against discrimination in the context of the right to food was the adoption of the Declaration on the Rights of Peasants – Women and Men by La Via Campesina, in June 2008 [...] it is time to undertake a preliminary study on the significance and importance of a possible new instrument on the rights of peasants and other people living in rural areas, including from

traditional fishing, hunting and herding activities’.<sup>59</sup> The inclusion of the Peasants’ Rights Declaration and the explicit praise for the work of La Via Campesina is remarkable; it was a milestone in La Via Campesina’s peasants’ rights campaign. Only rarely do Human Rights Council bodies express in such an explicit way their support for a civil society organization and its work. Some of the members of the Advisory Committee were very supportive of La Via Campesina: the former SR on the right to food, Jean Ziegler, and the ex-president of the Social Forum and ex-member of the Sub-Commission on Human Rights, Jose Bengoa, were since long aware of and sympathetic to the struggle of La Via Campesina.

The Human Rights Council followed the recommendation of the Advisory Committee and requested the latter to undertake a preliminary study on ways and means to further advance the rights of people working in rural areas. The mandate of the Advisory Committee was now more detailed: it had to focus on the rights of people working in rural areas. The issue of peasants’ rights was now firmly on the agenda of the Advisory Committee and the drafting group on the right to food was again charged with drafting the report.<sup>60</sup>

At the Advisory Committee’s sixth session in January 2011, the drafting group presented a preliminary report ‘on the advancement of the rights of peasants and other people working in rural areas’. It reiterated the need to develop a new instrument to protect peasants’ rights,<sup>61</sup> and argued that La Via Campesina’s Declaration could serve as a model.<sup>62</sup> The drafting group received important inputs from members of the Geneva Academy of International Humanitarian Law and Human Rights who were in charge of coordinating and editing the documentation of the report (Bengoa 2012). Such input demonstrates the need for information of the Advisory Committee as well as the impact of academics throughout the Declaration’s trajectory in the UN. Academics and other human rights experts play an important role as gatekeepers as their

reputation and expertise aids in convincing opponents and brings legitimacy to the claims made. During the OEWG first and second session (see *infra*) many experts were also invited to speak about the need and usefulness of a new declaration on the rights of peasants.

At the Advisory Committee's seventh session in August 2011 a representative of SPI intervened orally and encouraged 'the Advisory Committee to develop a draft declaration on the rights of peasants and other people working in rural areas *which could be annexed in the final study*' (emphasis added).<sup>63</sup> On behalf of the drafting group, Jean Ziegler delivered a background paper which summarized the views and comments of States and other stakeholders on the preliminary study. Just as in the preliminary report, Ziegler expressed his gratitude to Christophe Golay of the Geneva Academy of International Humanitarian Law for the substantive input during the drafting of the paper. This shows again that the members of this academic institution were an important driving force behind the peasants' rights process in the Advisory Committee. Ziegler's background paper concluded that 'the great majority of States and all other stakeholders, including the UN Special Rapporteur on the right to food, Olivier de Schutter, supported the conclusions and recommendations of the Advisory Committee'.<sup>64</sup> During the Advisory Committee's session, La Via Campesina, FIAN and CETIM organized another side-event to further highlight the importance of adopting a new instrument. They could again count on the support of members of the Advisory Committee, in particular Mr Bengoa, who stated during the event that 'we need to convince States that this is the time for peasants, it is a necessity, to a new instrument to protect the rights of peasants'.<sup>65</sup>

At the Advisory Committee's eighth session in February 2012, the final draft of their study was considered. La Via Campesina as well as FIAN intervened orally in this discussion.<sup>66</sup> The

Advisory Committee adopted the final draft report, with the Declaration on the Rights of Peasants annexed to it (Human Rights Council Advisory Committee, UN Doc. A/HRC/AC/8/6, 2012). The Peasants' Rights Declaration was now included in a UN document, and presented as a Declaration that had been drafted by the Advisory Committee. In this respect the control of SPI and La Via Campesina over the Declaration was gone. A relevant feature of the Advisory Committee's draft Declaration is the reference to the applicability of the Declaration to 'other people working in rural areas'. This expands the scope of the Peasants' Rights Declaration beyond small-scale peasants to other people such as pastoralists, nomads or fishermen. La Via Campesina's members are small-scale farmers, not fishermen or nomads. Such extension to other groups arguably hampers the possibility for La Via Campesina to establish a unique 'peasant identity'. Yet, except for this expansion and for some provisions that had been moved from one article to another, the Declaration on the rights of peasants and other people working in rural areas was still very much a copy of the declaration of SPI and La Via Campesina.

At its 21st session in September 2012, the Human Rights Council adopted a resolution in which it decided 'to establish an open-ended intergovernmental working group with the mandate of negotiating, finalizing and submitting to the Human Rights Council a draft United Nations declaration on the rights of peasants and other people working in rural areas, on the basis of the draft submitted by the Advisory Committee, and without prejudging relevant past, present and future views and proposals' (Human Rights Council, UN Doc. A/HRC/21/L.23, 2012b: para. 1). The content of this paragraph was discussed until the last moment since some States were not convinced of the utility of elaborating a new instrument. According to opponents such as the United States the focus should be on better implementation of existing rights. Others based their arguments more on procedural issues namely that the HRC was not the appropriate body or

that the Advisory Committee was not mandated to propose a draft declaration. Subsequently, the resolution, headed and sponsored by Bolivia with the support of South Africa, Ecuador and Cuba, received a number of negative votes including from the United States and all European states with a seat in the Human Rights Council. The adoption of the resolution on the OEWG concluded the agenda-setting phase supported by La Via Campesina and other organizations. The OEWG has concluded its second session in February 2015. The renewal of the mandate of the OEWG with - less votes against - was obtained due to successful lobbying of the Bolivian Chair-Rapporteur. At that second session a new draft declaration presented by the Chair-Rapporteur of the working group was discussed. In September 2015, the HRC decided to extend the OEWG's mandate to negotiate, finalize and submit to the Human Rights Council a draft with at least two more sessions (Human Rights Council, UN Doc. A/HRC/30/L.19, 2015). Support is growing amongst the members of the HRC as the recorded vote of the latter resolution extending the mandate again was 31 to 1, with 15 abstentions. This of course tells us little about the eventual (substantive) norm-setting.

In sum, we indicated in section three that the complexity of transnational advocacy presents serious challenges for any organization. La Via Campesina is quite unique in this respect, because often an organization will not be directly connected to all the different levels. This has considerably increased La Via Campesina's ability to access and impact key stakeholders. Our case-study demonstrates that notwithstanding the challenges, the various actors involved in the peasants' rights initiative appeared open to bottom-up networking and SPI and La Via Campesina remained in charge of the peasants' rights initiative. The impact of SPI on La Via Campesina and on the international level is remarkable. As a local organization from Indonesia, SPI led the peasants' rights' campaign in La Via Campesina and as such remained deeply

involved throughout the agenda-setting process. A key factor seems to have been the role of Henry Saragih, who was the leader of SPI as well as the coordinator of La Via Campesina throughout the campaign. Many community leaders will of course not find themselves in such a privileged position.

We also stressed that the cooperation of different actors (NGOs, social movements) with often different strategies and goals is not straightforward. SPI and La Via Campesina have demonstrated that they can forge strategic alliances with international NGOs as well with local organizations, and that they can link the local to the global through these alliances. La Via Campesina, the SR on the right to food and the Advisory Committee formed an alliance by adopting a common discourse on peasants' rights. The numerous side-events and participation at the annual sessions of the Advisory Committee facilitated the exchange of information and the potential 'to educate' or inform the human rights mechanisms.

In addition to the effectiveness and the expertise of the network, many circumstantial factors have surely contributed to the success of the peasants' rights' campaign. A contextual factor was the 2008 food crisis, which gave the peasants' claims a sense of urgency and prompted the UN Human Rights Council to continue to work on the issue. In fact, Shawki has indicated that 'over the last decade the claims of the agrarian movement have been resonant with international priorities, thereby increasing the 'fit', adherence, and coherence of these new rights claims'.<sup>67</sup> In addition, many key individual actors were involved throughout the whole agenda-setting process. For example, the former SR on the right to food and the former chairperson of the Social Forum (both supportive of La Via Campesina since the start) became later on members of the Advisory Committee. In addition, the Special Procedure on the right to food was sustained throughout the campaign and both mandate holders were very supportive of the claims of La Via Campesina.

Members of the Geneva Academy of International Law also provided, and continue to provide, support to the initiative. In other words, there was a continuity of supportive key actors at the Human Rights Council, in particular the Advisory Committee.

## **5. CONCLUSIONS**

The review of the literature on localizing processes and on the mechanisms of the Human Rights Council, together with the analysis of the trajectory of the Declaration on the Rights of Peasants reveal some important lessons for the process of localizing human rights.

We have demonstrated that local organisations can get access to the HRC and that many of its mechanisms, in particular the Advisory Committee and the Special Procedures are open to input from below. However, while adequate participation rights contribute to the potential impact of civil society and social movements on the Human Rights Council's work, there appear to be other determinants in increasing this impact. Support from civil society first of all legitimizes the work of the HRC mechanisms. States often criticize the recommendations of independent experts of the Advisory Committee or Special Procedures. Support and pressure by civil society can support these recommendations and help reduce the criticism. The mechanisms' legitimacy is thus strengthened by the work of civil society. A second, and perhaps biggest, factor that renders civil society organizations so vital for the HRC mechanisms is the latter's lack of resources and support from States. This makes them much more dependent on external information and hence more sensitive to it (this is also the case for the UN treaty bodies). In our case study the impact of SPI and La Via Campesina on the Advisory Committee has been the most explicit.

Most importantly, however, there appears no formal or systematic commitment to learn from below beyond these pragmatic reasons indicated above. The starting point of this paper is that

local struggles must inform the norm-setting at the international level in order to offer effective protection against contemporary violations of human rights. If a normative gap exist in the current framework than one needs to turn to the local level in order to identify and understand this gap. Given this starting point of the paper the argument is that the HRC should institutionalise learning from below rather than - what seems – adapting a ‘pragmatic approach’ to the participation of civil society. The HRC is often in need of information (cfr. periodic monitoring process of the treaty bodies) and therefore relies on civil society but what if such support is not needed anymore? For example, at the standard-setting stage (that is in the OEWG deliberations) SPI and La Via Campesina have certainly lost exclusive ownership over the Declaration as States, rather than independent experts or civil society organizations, take control over the standard-setting process. The Human Rights Council should consider further ways of facilitating the involvement of local movements in its activities and mechanisms, in particular given the above indicated challenges that these movements may face. One way of strengthening grassroots participation would be to develop a mechanism similar to the International Food Security and Nutrition Civil Society Mechanism (CSM) of the UN Committee on World Food Security (CFS).<sup>68</sup> Through this mechanism civil society organizations, including local groups are recognized not any longer as ‘observers’ but as institutional participants in the work of the Committee on Food Security. Through the CSM these organizations have a platform for sustained and coordinated engagement with the Committee on Food Security. Local groups are no longer at the perimeter of decision-making processes in this Committee. Perhaps a similar platform could be envisaged for the UN Advisory Committee.

The hypothesis that the effectiveness of the network is of utmost importance for a successful localizing process arguably holds true in our case study. The support for the peasants’ rights



initiative by international NGOs familiar with the functioning of the Human Rights Council's mechanisms was crucial for La Via Campesina and SPI. International NGOs provided the movement with human rights training and access to the UN mechanisms. The representatives of FIAN and other NGOs such as the ICJ and CETIM have a high degree of experience in working with UN human rights mechanisms. Over the years they have been able to build good working relations with the members of the UN mechanisms which facilitated the exchange of information and the adoption of a common discourse on the issue. Without the expertise and continuing support of international NGOs there would probably be no open-ended working group discussing the adoption of a Declaration on the Rights of Peasants.

The drafting process or norm-setting stage is the next crucial chapter in the peasants' rights' campaign. Two main challenges are likely to arise in this phase. First, drafting processes are seldom expeditious and this might present a challenge to the civil society actors in terms of resources to support the campaign. Secondly, as the drafting advances, the need to build consensus among States will equally increase. At present there is none. The vote from the resolution establishing the working group and the interventions by States during the first session shows powerful (groups of) States opposing a Declaration on the Rights of Peasants and Other People Working in Rural Areas. Consensus may be difficult to obtain since the Declaration stands in opposition to the current consensus of a market-oriented development paradigm.<sup>69</sup> From other standard-setting processes we have learned that 'a willingness to be in dialogue, be adaptive and, when possible, compromise is key when entering into a process with member States of the UN'.<sup>70</sup> This typically involves making strategic choices, perhaps even to the detriment of some of the provisions in the declaration. It is not improbable that the international NGOs will be easier to convince to comprise than La Via Campesina and SPI, who have drafted

the Declaration. The relationships in the network may thus become strained to a certain extent during the drafting process. The danger lies in the fact that the more reformist and progressive norms may need to be sacrificed in order to reach consensus. In this sense the draft declaration presented at the second OEWG session contained already considerable changes, including the elimination of the ‘right to reject’.<sup>1</sup> If these and other changes alter the declaration too much then La Via Campesina may decide to distance itself from the outcome. In this respect, Sally Engle Merry has noted that it is probably more common for people to adopt human rights frameworks pragmatically and strategically than through conversion or a shift in rights subjectivity.<sup>71</sup> In other words, the member organizations of La Via Campesina might as well consider dropping the rights discourse if this turns out to be trivializing their struggle.

Finally, and much related to the above point, whether or not new (human rights) standards will be created remains to be seen. Our case study can only confirm that in terms of agenda-setting local groups can have an impact through the mediation of the Advisory Committee. A declaration on the rights of peasants which echoes local claims is still to be adopted. Follow-up research is needed on this norm-setting process, as well as on other cases if we want to further expose the idiosyncrasies of localizing human rights processes.

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<sup>1</sup> De Feyter, Koen, et al. (eds) (2011), *The Local Relevance of Human Rights* (Cambridge: Cambridge University Press at 36.

<sup>2</sup> Edelman, Marc and James, Carwil (2011), 'Peasants' rights and the UN system: quixotic struggle? Or emancipatory idea whose time has come?', *The Journal of Peasant Studies*, 38 (1), 81-108 at 94)

<sup>3</sup> International Council on Human Rights Policy, 'Human Rights Standards: Learning from Experience', (Versoix, Switzerland: International Council on Human Rights Policy, 2006) at 31-32.

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<sup>1</sup> In several provisions of the declaration ‘the right to reject’ is reiterated such as in the context of seeds (Article 5(2&3)), agricultural values (Article 9(3)), biological diversity (Article 10(3,4 &6), land (Article 4(9)), and the environment (Article 11(3))

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- <sup>4</sup> Rajagopal, Balakrishnan (2011), *International law from below: Development, social movements and third world resistance* (Cambridge: Cambridge University Press) at 245-46.
- <sup>5</sup> Vandenhoe, Wouter, 'Localizing Children's Rights', in Liebel, Manfred, et al. (2012), *Children's Rights from Below: Cross-cultural Perspectives* (Basingstoke: Palgrave Macmillan), 80 -93 at 86.
- <sup>6</sup> Edelman, Marc, (2003), 'Transnational peasant and farmer movements and networks', *Global civil society*, 2003, 185-220 at 214.
- <sup>7</sup> De Feyter, Koen, 'Localizing Human Rights' (Antwerpen: IOB, 2006) at 12.
- <sup>8</sup> Goodale, Mark (2007), 'Locating rights, envisioning law between the global and the local', in Mark Goodale and Sally Engle Merry (eds), *The practice of human rights: Tracking law between the global and the local* (Cambridge: Cambridge University Press), 1-38 at 8.
- <sup>9</sup> Ife, Jim (2010), *Human rights from below: achieving rights through community development* (Cambridge: Cambridge University Press) at 126.
- <sup>10</sup> See De Feyter *supra* note 7 at 5.
- <sup>11</sup> Oré Aguilar, Gaby, 'The Local Relevance of Human Rights: A Methodological Approach', in De Feyter, Koen, et al. (eds) (2011), *The Local Relevance of Human Rights* (Cambridge: Cambridge University Press), 109 – 146 at 112.
- <sup>12</sup> See Ife *supra* note 9 at 147.
- <sup>13</sup> The problems with the binary logic implied in the terms 'the local' and 'the global' have led some scholars to favor network analysis as a way to study transnational human rights advocacy. See Goodale (2007) and Keck and Sikkink (1998).
- <sup>14</sup> See Oré Aguilar *supra* note 11 at 114.
- <sup>15</sup> See De Feyter *supra* note 1 at 15.
- <sup>16</sup> Desmet, Ellen (2014), 'Analysing users' trajectories in human rights: a conceptual exploration and research agenda', *Human Rights & International Legal Discourse*, 8 (2), 121-141 at 129.
- <sup>17</sup> *Ibid*, at 129-130.
- <sup>18</sup> See De Feyter *supra* note 7 at 17.
- <sup>19</sup> Scholars such as Bob (2009) and Shawki have identified the key actors in the emergence of new rights: the claimants and their champions; the gatekeepers, which include leading human rights NGOs as well as the Office of the UN High Commissioner for Human Rights and human rights intellectuals; States; and opponents of the new right(s) (Shawki 2014: 308).
- <sup>20</sup> Merry, Sally Engle (2006), 'Transnational human rights and local activism: Mapping the middle', *American Anthropologist*, 108 (1), 38-51.
- <sup>21</sup> See De Feyter *supra* note 7 at 18.
- <sup>22</sup> Piccone, Ted (2012), 'Catalysts for Rights: The Unique Contribution of the UN's Independent Experts on Human Rights' (Washington: The Brookings Institution) at 107.
- <sup>23</sup> See International Service for Human Rights, Accreditation procedure threatens to undercut civil society participation at UN meeting (2013), <http://www.ishr.ch/news/accreditation-procedure-threatens-undercut-civil-society-participation-un-meeting#sthash.vjiMI5vR.dpuf> (last accessed on 7 February 2014).
- <sup>24</sup> Thanks to Koen De Feyter for pointing this out.
- <sup>25</sup> Note that for indigenous people there is a UN Voluntary fund that is established to assist representatives of indigenous communities and organizations to participate in the deliberations of the UN Working Group on Indigenous Populations.
- <sup>26</sup> Monsalve Suárez, Sofia (2013), 'The Human Rights Framework in Contemporary Agrarian Struggles', *The Journal of Peasant Studies*, 40 (1), 239-90 at 250.
- <sup>27</sup> See Vandenhoe *supra* note at 86.
- <sup>28</sup> See Piccone *supra* note 23 at 107.

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- <sup>29</sup> Desmarais, Annette-Aur lie (2007), *La Via Campesina: Globalization and the power of peasants* (Halifax: Fernwood Publishing) at 87-92.
- <sup>30</sup> Mansour, Fakih, Rahardjo, Toto, and Pimbert, Michel (2003), 'Community Integrated Pest Management in Indonesia: Institutionalising Participation and People Centred Approaches' (London: International Institute for Environment and Development and the Institute of Development Studies, 2003) at 28-30.
- <sup>31</sup> Claeys, Priscilla (2012), 'The creation of new rights by the food sovereignty movement: the challenge of institutionalizing subversion', *Sociology*, 46 (5), 844-860 at 850.
- <sup>32</sup> Lucas, Anton and Warren, Carol (2003), 'The state, the people, and their mediators: The struggle over agrarian law reform in post-new order Indonesia', *Indonesia*, 76, 87-126 at 103.
- <sup>33</sup> *Ibid*, at 102.
- <sup>34</sup> Edelman, Marc (2012), 'Linking the Rights of Peasants to the Right to Food in the United Nations', *Law, Culture and the Humanities*. 1-16 at 9. 10-4F47F
- <sup>35</sup> Purwanto, Heri (2013), 'Local to Global: How Serikat Petani Indonesia Has Accelerated The Movement For Agrarian Reform', *La Via Campesina's Open Book: Celebrating 20 Years of Struggle and Hope* (Harare: Via Campesina) at 3.
- <sup>36</sup> See Edelman and James *supra* note 2 at 91.
- <sup>37</sup> Towards farmers' rights, available at: <http://www.viacampesina.org/en/index.php/our-conferences-mainmenu-28/3-bangalore-2000-mainmenu-55/35-towards-farmers-rights> (last accessed on 25 February 2014).
- <sup>38</sup> Shawki, Noha (2014), 'New Rights Advocacy and the Human Rights of Peasants: La Via Campesina and the Evolution of New Human Rights Norms', *Journal of Human Rights Practice*, 6(2) at 322.
- <sup>39</sup> See Edelman *supra* note 35 at 10.
- <sup>40</sup> Note that CETIM was initially not convinced of supporting La Via Campesina and wanted to focus on implementing existing rights. But because it – inter alia – come from below they decided to go support the initiative. (for a description of this - see Claeys 2015: 57).
- <sup>41</sup> <http://www.cetim.ch/presentation-of-the-cetim/> (last accessed at 23 October 15)
- <sup>42</sup> Third World Centre (2001), 'Oral Statement: The Opening of the agricultural Markets and their Consequences for the Peasants of the South', Human Rights Commission).
- <sup>43</sup> Biglino et al. (2012), 'The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue', *The International Journal of Human Rights*, 9 (17), 15 -38 at 31.
- <sup>44</sup> See De Feyter *supra* note 7 at 19.
- <sup>45</sup> Ziegler, Jean (2002), Study of the Special Rapporteur of the Commission on Human Rights on the Right to Food (UN Doc. A/57/356, 2002) at paras. 20, 26.
- <sup>46</sup> See e.g. Coomans, Fons (2006), 'Agrarian Reform as a Human Rights Issue in the Activities of United Nations Human Rights Bodies and Specialised Agencies', *Netherlands Quarterly of Human Rights*, 24 (1), 7-31 at 16-17.
- <sup>47</sup> FIAN International and La Via Campesina (2004), 'Violations of peasants' human rights - A Study on Cases and Patterns of Violation 2004', (Heidelberg: FIAN, 2004) at 34-39; La Via Campesina and FIAN International (2006), 'Violations of Peasants' Human Rights - A Study on Cases and Patterns of Violations 2006' (Heidelberg: FIAN, 2006) at 21-23.
- <sup>48</sup> Golay, Christophe (2013) 'Background paper: Legal reflections on the rights of peasants and other people working in rural areas', (Geneva: Geneva Academy of International Humanitarian Law and Human Rights, 2013), 1-20 at 5.

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- <sup>49</sup> Golay, Christophe (2009), 'Towards a Convention on the Rights of Peasants', in Sophia Murphy and Armin Paasch (eds), *The Global Food Challenge: Towards a Human Rights Approach to Trade and Investment Policies* (Bern: Bröt for die Welt), 102-112 at 108.
- <sup>50</sup> In his first statement the SR had urged the HRC to hold such a session, see: De Schutter, Olivier (2008), 'Background note: Analysis of the Special Rapporteur on the global food crisis' (New York).
- <sup>51</sup> FIAN International, 'Joint Declaration addressed to Governments on World Food Crisis - "The world doesn't need more of the same medicine"', 2008).
- <sup>52</sup> Human Rights Council (2008), UN Doc. 7/14 at para. 10.
- <sup>53</sup> Third World Centre (2008) 'Newsletter No 32' (Geneva: CETIM, 2008) at 4.
- <sup>54</sup> Human Rights Council Advisory Committee (2008), UN Doc. A/HRC/AC/2008/1/2 at 18.
- <sup>55</sup> See Golay *supra* note 46 at 7.
- <sup>56</sup> Human Rights Council (2009b), UN Doc. Resolution 10/12 at 34.
- <sup>57</sup> Ziegler et al. (2009) 'Peasant Farmers and the Right to Food: a History of Discrimination and Exploitation' (UN. Doc. A/HRC/AC/3/CRP.5) at paras. 59-66.
- <sup>58</sup> Rights of Peasants: ending the discrimination against peasants, available at: <http://viacampesina.org/en/index.php/main-issues-mainmenu-27/human-rights-mainmenu-40/841-rights-of-peasants-ending-the-discrimination-against-peasants> (last accessed on 21 February 2014).
- <sup>59</sup> Human Rights Council Advisory Committee (2010a), UN Doc. A/HRC/AC/4/2, at para. 86.
- <sup>60</sup> Human Rights Council Advisory Committee (2010b), UN Doc. A/HRC/AC/5/L.1.
- <sup>61</sup> Human Rights Council Advisory Committee (2010c), UN Doc. A/HRC/AC/6/CRP.2 at para. 72.
- <sup>62</sup> *Ibid*, at para. 67)
- <sup>63</sup> Oral Intervention seventh session of UN Human Rights Council Advisory Committee, available at: <http://viacampesina.org/en/index.php/main-issues-mainmenu-27/human-rights-mainmenu-40/1075-oral-intervention-7th-session-of-un-human-rights-council-advisory-committee> (last accessed on 20 February 2014).
- <sup>64</sup> Human Rights Council Advisory Committee (2011b), UN Doc. A/HRC/AC/7/CRP.1 at para. 25.
- <sup>65</sup> La Via Campesina, Peasants Need a New Instrument to Protect their Human Rights, available at: <http://viacampesina.org/en/index.php/main-issues-mainmenu-27/human-rights-mainmenu-40/1076-peasants-need-a-new-instrument-to-protect-their-human-rights> (last accessed on 20 January 2014).
- <sup>66</sup> La Via Campesina, Oral Intervention of FIAN International and La Via Campesina in the 8th session of the UN Human Rights Council Advisory Committee, available at: <http://viacampesina.org/en/index.php/main-issues-mainmenu-27/human-rights-mainmenu-40/1180-oral-intervention-of-fian-international-and-la-via-campesina-in-the-8th-session-of-the-un-human-rights-council-advisory-committee> (last accessed on 20 January 2014).
- <sup>67</sup> See Shawki *supra* note 39 at 318.
- <sup>68</sup> This mechanism was installed after the reform of the CFS in 2009. Although still in its initial stages of development and facing many challenges, the CSM aims to support civil society organizations to influence policy processes and outcomes at the global level in relation to food security and nutrition. CSOs now have an institutionally embedded mandate to participate in the decision-making of the UN Committee on World Food Security. De Schutter indicates that the reform of the CFS is grounded in 'the recognition that governments will only manage to make true progress towards food security if they accept to work in a bottom-up fashion, by learning not only from one another's experiences, but also from the experience of those who are on the frontline of combating hunger' (De Schutter 2013: 4). The CSM aims to be an inclusive mechanisms and gives priority to the organisations and movements of the people most affected by

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food insecurity and malnutrition, i.e. smallholder producers, fisherfolk, pastoralists, indigenous, urban poor, migrants, and agricultural workers.

<sup>69</sup> *Ibid*, at 319.

<sup>70</sup> Gelbspan, Thea and Prioste, Fernando (2013), *Land in the struggle for social justice: social movement strategies to secure human rights* (Curitiba: Terra de Direitos, 2013) at 101.

<sup>71</sup> See Merry *supra* note 20 at 44.

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