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UNDROP SERIES

# ENVIRONMENTAL AND CLIMATE JUSTICE

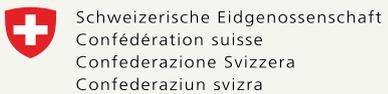


**FIAN**  
INTERNATIONAL

## PUBLISHED BY



## WITH FINANCIAL SUPPORT FROM



| December 2020

# ENVIRONMENTAL AND CLIMATE JUSTICE

By Astrud Lea Beringer<sup>1</sup>

## In the UN Declaration on the Rights of Peasants and other People Working in Rural Areas

The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (hereinafter, UNDROP) was adopted by the United Nations General Assembly on 17 December 2018. This briefing note on environmental and climate justice is part of a series of briefings published by FIAN International to better explain the content adopted in UNDROP.

The first series of briefings covered the following topics: the right to sovereignty over natural resources, development and food sovereignty; the right to land and other natural resources; the right to seeds and the right to biological diversity; states obligations; rural women's rights; right to a decent income and livelihood; collective rights; and the right to water.

The second series of briefings cover: rights of women in rural areas; right to water; the right to adequate food and nutrition, and to food sovereignty; the rights to biodiversity and seeds; interlinkages between UNDROP and UNDRIP; environmental and climate justice; agroecology; businesses and human rights; the right to land; and digitalization.

All briefings are available on our website <http://www.fian.org/>

<sup>1</sup> | Astrud Lea Beringer is program officer at FIAN International. The author would like to thank Sofia Monsalve, Marcos Orellana and Philip Seufert for their guidance and suggestions to this paper.

Environmental destruction and climate change are threatening the human rights of peasants and other people working in rural areas around the world. UNDROP is an essential human rights instrument to realize the human right to adequate food and nutrition and can play a key role in achieving environmental and climate justice.

The paper will offer a short introduction on the interlinkage of human rights and environmental and climate justice. This is followed by a description of the importance of UNDROP for the realization of the right to adequate food and nutrition and related rights, in the context of environmental degradation and climate-related impacts. It will then elaborate on a number of human rights included in UNDROP to explain their relevance for addressing the environmental and climate emergency. The brief will end with some practical ideas on how to integrate UNDROP and a human rights-based approach into the responses to climate change.





2 |

Food and Agriculture Organization (FAO), International Fund for Agricultural Development (IFAD), United Nations Children's Fund (UNICEF), World Food Programme (WFP) and World Health Organization (WHO). 2018. *The State of Food and Nutrition in the World 2018. Building climate resilience for food security and nutrition.*

3 |

The climate justice movement gained first global momentum in particular through the UN Framework Convention on Climate Change (UNFCCC) conference of parties (COP13) meeting in Bali in 2007 and the COP15 in Copenhagen in 2009. Due to the two meetings' disappointing outcomes, the exclusion of social movements from the formal processes and the dominant focus on market-oriented solution, the movement initiated the World People's Conference on Climate Change and the Rights of Mother Earth in Cochabamba, Bolivia, in 2010. The People's Agreement of Cochabamba reaffirmed earlier grassroots principles of climate justice, including a "focus on the protection of indigenous peoples, the notions of respect and recognition, the maintenance of identity and integrity, the right to be free from pollution, the role of historical responsibility and restorative justice, and more transparent and open participatory government processes". See, Schlosberg, David and Lisette B. Collins. "From environmental to climate justice: climate change and the discourse of environmental justice". *WIREs Climate Change* 5 (2014): 367. For more information, please visit: <https://pwccc.wordpress.com/2010/04/24/peoples-agreement/>.

# 1.

## A HUMAN RIGHTS-BASED APPROACH TOWARDS ENVIRONMENTAL AND CLIMATE JUSTICE

**The environmental and climate crisis is one of the principal threats to life on the planet for present and future generations.** Global warming and ecosystem destruction threaten the production of nutritious food, water availability, housing and health, all of which are essential to live a life in dignity. The people and communities who most suffer the consequences of eco-destruction and climate-related impacts are those who are already most vulnerable and marginalized. These include the world's 2.5 billion small-scale farmers, herders, fishers, and forest-dependent people<sup>2</sup> who rely on land, water and other natural resources for their survival. They face the biggest challenges, although they have contributed least to the causes of climate change. This uneven distribution of causes, risks, and impacts has shaped the global call for environmental and climate justice. Grassroots movements<sup>3</sup> advocating environmental and climate justice share a variety of interrelated concerns, such as the inequitable impact of fossil fuel production on already vulnerable people and the historical responsibility for those problems of those countries who have primarily caused them.<sup>4</sup> The principle of 'common concern for humankind', articulated in the preamble of the 1992 UN Framework Convention for Climate Change (UNFCCC)<sup>5</sup> and reiterated in the 2015 Paris Agreement<sup>6</sup>, affirms that combatting climate change must be a collective endeavor and cannot be solved independently. The 'common concern' aspect is also the foundation for human rights-based climate justice approach, taking into account states' obligations beyond their borders. The Paris Agreement recognizes that "[c]limate change is a new way to violate basic human rights, and climate justice means providing for those rights to which we have already agreed"<sup>7</sup>.

4 | Schlosberg, David and Lisette B. Collins. "From environmental to climate justice: climate change and the discourse of environmental justice". *WIREs Climate Change* 5 (2014): 359-374.

5 | UNFCCC. 1992. United Nations Framework Convention on Climate Change. FCCC/INFORMAL/84. Available at: <https://unfccc.int/resource/docs/convkp/conveg.pdf>.

6 | Paris Agreement. 2015. Available at: [https://unfccc.int/files/essential\\_background/convention/application/pdf/english\\_paris\\_agreement.pdf](https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf).

7 | Ibid. 365.

8 | Krittasudthacheewa, C., et al. (eds.). 2019. Development and Climate Change in the Mekong Region. Case Studies. Strategic Information and Research Development Centre/Stockholm Environment Institute. Available online: <https://www.sei.org/wp-content/uploads/2019/08/climate-change-mekong-sumernet-2019-smallsize.pdf>.

9 | Ocean acidification and warming are direct consequences of increased carbon dioxide concentration in the atmosphere. For more information, please see: Noone, K.J., Sumaila, U.R. and R.j. Diaz. 2013. *Managing Ocean Environments in a Changing Climate. Sustainability and Economic Perspectives*. Elsevier. DOI: 10.1016/C2012-0-03372-8

10 | United Nations Special Rapporteur on Human Rights and the Environment. 2019. *Safe Climate: Human Rights and Climate Change*. Doc. A/74/161, paras. 95-96: 42.

11 | The Rio Declaration on Environment and Development of 1992 mentions the 'polluter-pay' principle in principle 16 of the declaration. For further information, please visit: <https://www.cbd.int/doc/ref/rio-declaration.shtml>.

12 | FIAN International supported the development of the 'Liability Roadmap' as part of the 'Make Big Polluters Pay' campaign, guided by Corporate Accountability. The roadmap should serve as a tool inform civil society and decision-makers on why and how to hold polluting industries accountable for their abuses. For more information, please visit: <https://liability-roadmap.org/>.

**The climate crisis must be understood as a human rights crisis.** The effects of climate change threaten human rights but also national and global responses can result in numerous human rights abuses and violations. For example, severe flooding in the wet season and extreme droughts in combination with salinity intrusion in the dry season have led to widespread crop failure in delta regions<sup>8</sup>. As a consequence, shrinking crop yield and aquafarming productivity threaten the right to adequate food and nutrition (hereafter: RtFN) of millions of small-scale producers. Ocean acidification<sup>9</sup> and warming increasingly reduce marine fish stocks, directly affecting the livelihoods of numerous fishers and their communities worldwide. The construction of hydropower dams for supposedly 'clean' energy and land conversions, for example for agro fuel production, frequently result in land grabs and forced evictions of rural communities, depriving them of their livelihoods and impairing their human rights. These situations reflect how climate adaptation and mitigation measures can create even more environmental damage and cause negative effects for a range of human rights at a systemic level.

**The 2015 Paris Agreement marks an important turning point by explicitly linking climate protection with human rights and related principles.** The preamble of the agreement notes the importance of climate justice and acknowledges the crucial intersection of climate change, food production and food security. This interlinkage was further emphasized in the 2019 report of the UN Special Rapporteur on Human Rights and Environment, stating that "a safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and wellbeing"<sup>10</sup>. The agreement encourages a holistic approach to climate mitigation and adaptation that puts emphasis on the realization of human rights as a crucial component for achieving climate justice. In this regard, the 'polluter-pays principle'<sup>11</sup>, which holds corporations liable for their 'dirty' fossil fuel-based activities,<sup>12</sup> becomes crucial to achieve the agreement's goal of keep global greenhouse gases (GHG) concentration in the atmosphere below 2°C.

**Environmental laws and policies are increasingly including human rights provisions.** Environmental laws recognize several rights and principles, for example, the right to information and participation in environmental decision-making, as well as the principles of prevention and precaution. According to these principles, governments are required to take action to prevent harm in the face of evidence of risk, clarifying that scientific uncertainty must not be used as an excuse to delay or avoid measures of protection. Simultaneously, human rights bodies have begun to address the environmental dimensions of human rights more consistently, in particular the right to a healthy environment and the right to be free from toxic pollution. Better linking environmental, climate and human rights law in a mutually reinforcing way is key in order to achieve environmental and climate justice.



## 2.

### WHY IS UNDROP IMPORTANT?

UNDROP can play a major role in supporting environmental and climate struggles.

#### — *Reconnecting humans with nature*

UNDROP recognizes the rights of peasants, small-scale farmers and fishers, pastoralists, landless people, rural workers, indigenous peoples and other local communities and people working in rural areas (hereafter: rural communities). These rural communities represent almost half of the world's population and are among those people who suffer most from environmental degradation and climate change impacts. UNDROP recognizes their intrinsic relationship with the natural environment by strengthening rural communities' rights. This dynamic points to the significance of their traditional knowledge and innovations as well as their sustainable management practices to cool down the planet and restore ecosystems.

UNDROP increases the visibility of rights of rural communities that are already recognized in international law as well as new rights, such as the rights to land and other natural resources (Art. 17), seeds (Art. 19), food sovereignty (Art. 15) and compensation for losses (Arts. 12, 17, and 24), among others.<sup>13</sup> Women's rights receive particular attention in UNDROP (Art. 4), which is crucial as rural women often suffer even greater hardship from climate shocks than men, as a consequence of existing gender inequalities. Importantly, UN-

#### 13 |

For more information, please see also: United Nations Human Rights Council Advisory Committee (UNHRC). 2012. Final study of the advancement of the rights of peasants and other people working in rural areas, A/HRC/19/75.

DROP refers to individual rights but also attributes importance to the collective nature of rural communities' rights (Arts. 15, 16, 17, and 26) by pointing to the challenges they are confronting as a group.

UNDROP includes indigenous peoples as rights holders, and thus increases the recognition of their rights without undermining the specific protection<sup>14</sup> that they are enjoying under the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>15</sup>. Due to their special relationship to nature, traditional knowledge and sustainable management practices, indigenous peoples play a central role in addressing the environmental and climate crisis. Although international law has solidified the recognition and content of their rights, they still have to be further enhanced and implemented, particularly in the context of climate change-related impacts and ecosystem destruction.

— *Agri-Food System transformation is key to combat climate change and global food insecurity*

**14 |**

For more information, please see: Castaneda Flores, "interlinkages between UNDROP and UNDRIP" FIAN International: Heidelberg. (unpublished, in preparation)

**15 |**

UNDRIP (13 Sept. 2007). Available at: [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UN-DRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UN-DRIP_E_web.pdf).

**16 |**

Special Rapporteur on the Right to Food. 2015. Impact of Climate Change on the Right to Food, Doc. A/70/287.

**17 |**

IPCC. "Summary for Policy Makers", in Shukla, Priyadarshi et al., eds. *Climate Change and Land: an IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas fluxes in Terrestrial Ecosystems*. In press. Available at: [https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM\\_Update-Jan20.pdf](https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Update-Jan20.pdf)

**18 |**

For more information, please see: Morena, M.A., et al. *Agroecology and the Right to Food and Nutrition*. Analytical Briefing. FIAN International: Heidelberg. (unpublished, in preparation)

**19 |**

For more information, please see: Suarez-Franco, A.M. *Businesses and Human Rights in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. (unpublished, in preparation)

**The way we produce, distribute and eat food is closely entangled with global ecological destruction.**<sup>16</sup> Until recently, climate-related assessments focused largely on the contribution of fossil fuel combustion and coal mining to carbon dioxide concentrations. Only in recent years, the significant role of agricultural activities and land-based ecosystems in the climate regime gained stronger recognition. According to the Intergovernmental Panel on Climate Change (IPCC), 23 percent of the total anthropogenic GHG (2017-2016) derives from agriculture and forestry land use.<sup>17</sup> The evidence is clear: the industrial agricultural model is one of the major drivers of climate-change and eco-destruction and directly affecting the RtFN by reducing food availability, accessibility, adequacy and sustainability.

**A transformation of the prevailing industrial, agro-food system is therefore a core component of strategies aiming at both keeping GHG emissions below 2°C and addressing global hunger.** This current model is heavily reliant on 'dirty' fossil fuels, extractivism, agrochemicals, and deforestation. Land, forests, and water are vital to feed the world and particularly small-scale food producers and rural communities, who are dependent on their natural environment to survive. At the same time, their **production and management practices, in particular agroecology<sup>18</sup>, are crucial elements to cool down the planet, restore biodiversity, and realize the RtFN.** UNDROP promotes the needed transition towards more healthy, sustainable and just food systems (Arts. 13, 15, 19 and 20). It also provides protection to rural communities from the pressures from industrial farming (in particular Arts. 3, 15, 17, and 21) as well as from the devastating effects of climate change (preamble, Art. 18 and 25). Moreover, it can support challenging the power of transnational corporations and holding them accountable for their destructive activities and human rights abuses (Arts. 2 and 18)<sup>19</sup>.

**Land is not only a major contributor to global warming but also plays a crucial part in reducing GHG emissions and ensuring climate justice.**

Expansion of industrial monocultures, rising demand for energy and raw materials, unsustainable food consumption patterns, shrinking soil fertility and extreme climate events have resulted in a global rush for land. Market-based and financialized climate change mitigation approaches, such as carbon offsets, as well as so-called ‘nature-based solutions’<sup>20</sup> that present land and forests as major carbon sinks have created new investment opportunities for business, further exacerbating the dispossession of rural communities and people.<sup>21</sup> Similarly, dominant corporate-driven climate narratives aiming to make agriculture ‘climate smart’ have perpetuated dynamics of expulsion, land concentration and violence against nature and people.<sup>22</sup>

**Climate justice goes hand in hand with agrarian justice.** To put it another way, the realization of the right to land and other natural resources (UNDROP Arts. 5 and 17) is highly relevant for climate justice struggles (see Box 1). The 2019 IPCC special report on land<sup>23</sup> recognizes the importance of land tenure security for rural communities in the climate debate. Only when their right to land and tenure systems are effectively protected, they can fulfil their role as ‘stewards of ecosystems’ that is based on their sustainable land and forest management practices (such as agroforestry and agroecology). Thus, social land reforms, i.e. recognition, restitution, redistribution, and restoration of land, that are in many places incomplete and have been neglected, become core parts of responses to climate change. What is more, real solutions to climate change need to address the high concentration of land in the hands of corporations and finance firms.

20 |

ACB/TWN. 2020. Nature-based solutions or nature-based seductions? Unpacking the dangerous myth that nature-based solutions can sufficiently mitigate climate change. Available online: <https://www.acbio.org.za/sites/default/files/documents/202009/twn-briefing-paper.pdf>.

21 |

FIAN International/TNI/Focus on the Global South. 2020. "Rogue capitalism and the Financialization of Territories and Nature." Available online:

22 |

Borras, S.M. Jr and Franco, J.C. 2018. Agrarian climate justice: Imperative and opportunity, *Working Paper*, Transnational Institute. Available online: <https://www.tni.org/en/publication/agrarian-climate-justice-imperative-and-opportunity>.

23 |

Intergovernmental Panel on Climate Change. 2019. Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas fluxes in Terrestrial Ecosystems.





### 3.

#### HOW IS CLIMATE AND ENVIRONMENTAL CRISES ADDRESSED IN UNDROP?

24 |

Claeys, P. 2015. *Rights to Sovereignty over Natural Resources, Development and Food Sovereignty in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [https://fian.org/files/files/PeasantsRights\\_Sovereignty\\_NaturalResources.pdf](https://fian.org/files/files/PeasantsRights_Sovereignty_NaturalResources.pdf).

25 |

United Nations General Assembly. 1986. *Declaration on the Right to Development*, Resolution 4/128, Article 1.

26 |

The Right to Development is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in and contribute to and enjoy economic, social, cultural, and political development in which all human rights and fundamental freedoms can be fully realized”. Source: *Supra* note 24.

27 |

The concept of development however is often equalled to carbon-based economic expansion, a conception derived from the industrialization era. Today it is clear that this way of development is strongly constrained by climate-related issues but continues to be used as a justification for further environmental destruction.

UNDROP contains a number of rights that are threatened by environmental and climate crises. At the same time, effectively implementing these rights will boost inclusive environmental protection measures that make rural communities central parts of the solution to global warming. The following paragraphs summarize the core elements of these rights.

#### — The Right to Development<sup>24</sup>

The right to development (hereafter: RtD) was recognized in the 1986 Declaration of the Right to Development<sup>25</sup> as both an individual and a collective right.<sup>26</sup> States are responsible to enable national and international conditions that favour this right, which means ensuring development and realizing human rights for all. Peasants and other rural people are entitled to the RtD but often excluded from decision-making processes that affect their lives. The RtD is re-affirmed in Article 3.2 of UNDROP, which states that rural communities have the “right to determine and develop their own priorities and strategies for exercising their right to development”.

In the context of the climate crisis, the RtD is significant as it provides essential guiding principles that can foster alternative and sustainable development pathways, building on rural communities’ non-destructive farming practices to the environment and contribute to the maintenance of the ecological balance.<sup>27</sup> In this regard, the principle of ‘common but differentiated

28 |

Kroff, F. 2015. *The Right to Food in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [https://www.fian.org/fileadmin/media/Publications/Peasants\\_Rights/PeasantsRights\\_right\\_to\\_food.pdf](https://www.fian.org/fileadmin/media/Publications/Peasants_Rights/PeasantsRights_right_to_food.pdf).

29 |

Monsalve Suárez, S. 2015. *The Right to Land and Other Natural Resources in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [https://www.fian.org/fileadmin/media/Publications/Peasants\\_Rights/PeasantsRights\\_right\\_to\\_land.pdf](https://www.fian.org/fileadmin/media/Publications/Peasants_Rights/PeasantsRights_right_to_land.pdf).

30 |

The UN estimates that between 1994 and 2014 up to “300 million people worldwide have been affected by development-related displacement” due to large development and business projects such as the construction of hydroelectric dams or luxury resorts for tourism. Source: United Nations Economic and Social Council. 2014. *Report of the United Nations High Commissioner for Human Rights*, Doc. E/2014/86, p. 3. Available at: <https://undocs.org/E/2014/86>.

31 |

In 2018, the International Organization for Migration tracked over two million displaced people related to climate extremes. Development-induced displacements are poorly documented albeit their significance to understand the linkage between human rights responses to the climate crisis. Source: International Organization for Migration. Displacement Tracking Matrix. Available at: <https://displacement.iom.int/>.

32 |

See, for instance, Friends of the Earth International. “REDD+: The carbon market and the California-Acre-Chiapas cooperation”. Available at: [www.foei.org/wp-content/uploads/2018/01/REDD\\_The-carbon-market-and-the-California-Acre-Chiapas-cooperation.pdf](http://www.foei.org/wp-content/uploads/2018/01/REDD_The-carbon-market-and-the-California-Acre-Chiapas-cooperation.pdf).

33 |

Territory’ refers to a “holistic understanding of land, which recognizes that all natural resources and their uses are interconnected in the realities of the lives and livelihoods of many people, making it impossible to separate land, fisheries and forests from one another, or from other natural resources.” FIAN International. *The Human Right to Land*, Position Paper 2017: 18. Available online: [https://www.fian.org/fileadmin/media/publications\\_2017/Reports\\_and\\_Guidelines/FIAN\\_Position\\_paper\\_on\\_the\\_Human\\_Right\\_to\\_Land\\_en\\_061117web.pdf](https://www.fian.org/fileadmin/media/publications_2017/Reports_and_Guidelines/FIAN_Position_paper_on_the_Human_Right_to_Land_en_061117web.pdf).

responsibilities’ synergizes with the RtD in emphasizing that countries that have been a major part of the causes of climate change should take the lead in tackling the problem and provide support to the most affected people by climate change, particularly rural communities and their farming practices. Following this principle will help to pave the way for sustainable and resilient development.

### —— *The Right to Food and Nutrition*<sup>28</sup>

The RtFN is an individual right that can be exercised collectively and the enjoyment of it must be free from discrimination. In relation to rural communities, the RtFN is re-affirmed in Article 15 of UNDROP, stating that they “have the right to food and nutrition and the fundamental right to be free from hunger” (para. 1). More importantly, UNDROP underlines the importance of food sovereignty and the reshaping of food systems in a sustainable and equitable manner (paras. 4 and 5), so that access to food is preserved for future generations (para. 2). It further underscores the significance of sustainable food production practices of rural communities, such as agroecology, to combat hunger and address climate change at the same time. Paragraph 4 also highlights rural communities’ right to participate in decision-making processes on food and agriculture, a crucial element supporting inclusive climate negotiations.

### —— *The Right to Land and Other Natural Resources*<sup>29</sup>

As explained before, the distribution, use, management of and control over land and natural resources are crucial in the context of climate change. Land use change for industrial monocultures, infrastructure projects, and mining, which are often land and resource grabs, destroy ecosystems and drive global warming. What is more, these changes exacerbate with the effects of climate change land conflicts and dispossession.<sup>30 31</sup> Several so-called ‘climate-smart’ initiatives and market-based climate change adaptation and mitigation policies increase land insecurity, landlessness, and marginalization of rural communities.<sup>32</sup>

UNDROP is an important milestone for the recognition of the right to land and other natural resources (hereafter: RtL) in international human rights law, in particular for non-indigenous rural people and communities. Article 17 of UNDROP defines this right, which can be exercised individually and/or collectively as “the right to have access to, sustainably use and manage land and water bodies, coastal seas, fisheries, pastures and forests” (para. 1). Notably, this definition recognizes the close links between natural resources and their uses by rural communities, thus taking the direction towards a right to territory<sup>33</sup>. UNDROP further clarifies that States are required to provide protection to rural communities against discrimination related to tenure (para. 2) as well as arbitrary and forced eviction (paras. 3 and 4), including displace-

ments in the context of natural disasters” (para. 5). Moreover, it underlines States’ obligation to provide legal recognition to tenure rights, recognizing different tenure systems, and to “protect the natural commons and their related systems of collective use and management” (para. 3). These provisions are important in the context of growing risks of dispossession and displacements from land and other natural resources they rely on, including through nature conservation and climate adaptation projects.

UNDROP also points to the significance of the restitution (para. 5) of tenure rights as well as redistribution, especially under agrarian reforms (para. 6). These references are highly relevant for achieving agrarian, social, environmental, and climate justice. Moreover, Paragraph 7 highlights the importance of agroecology to conserve land and restore biodiversity.<sup>34</sup>

**34 |**

Article 17, Paragraph 7 of UNDROP states that “States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including, among others, through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles”.

**35 |**

Beringer, A.L. “Philippines: Climate Justice needs Human Rights. Six Years of Reconstruction after Typhoon Yolanda”. Available online: [https://www.asienhaus.de/uploads/tx\\_news/Blickwechsel\\_Philippinen\\_Climate\\_Justice\\_needs\\_Human\\_Rights\\_May\\_2020\\_01.pdf](https://www.asienhaus.de/uploads/tx_news/Blickwechsel_Philippinen_Climate_Justice_needs_Human_Rights_May_2020_01.pdf).

**36 |**

The promotion of the right to a healthy environment underlines the need for a human-rights based approach in environmental and climate laws. It provides an opportunity for access to justice and accountability of rural communities, for example, by seeking redress for a State’s non-compliance with climate change adaptation and mitigation policies. UNDROP further affirms this in Paragraph 5 by reiterating to make use of relevant human rights in environmental laws in order to give protection to rural communities against abuses of non-state actors.

**37 |**

Monsalve Suárez, S. 2016. *The Right to Seeds and Biological Diversity in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [https://www.fian.org/fileadmin/media/Publications/Peasants\\_Rights/droits\\_semences\\_UK\\_web.pdf](https://www.fian.org/fileadmin/media/Publications/Peasants_Rights/droits_semences_UK_web.pdf).

**38 |**

Peasant seed systems refer to the collective rules and practices through which peasant communities and indigenous peoples’ access, use and manage their seeds and realize their rights over seeds. Source: *Supra* note 36.

**A post-disaster reconstruction project undermines the right to land, water bodies and coastal areas of peasants and small-scale fishers on Sicogon Island in the Philippines<sup>35</sup>**

About 1,500 small-scale farmer and fisher families on the Philippine Island of Sicogon have been struggling for their human rights to land, food, housing, and water for years. When Super-Typhoon Yolanda hit the country in 2013, the storm not only destroyed 95 percent of their houses and fishing boats but also exacerbated a lengthy land rights dispute with the private company Sicogon Development Corporation (SIDEKO). Ayala Land, one of the most powerful real estate companies in the Philippines, became partner of the government in the reconstruction process and responsible for the rehabilitation of the 1,163 hectare island. Based on a joint venture partnership of SIDEKO and Ayala Land, the vulnerable situation of the islanders after the Typhoon helped the two companies to influence relevant authorities and use the unsolved land ownership issues on the island to benefit their tourism project. After Yolanda, the companies made an offer to the islanders which implied giving up their previously gained land rights under the national agrarian reform program and leaving the island. Since then, 784 families who refused the offer have sustained physical and verbal harassments through the two companies until they entered a compromise agreement with them. This agreement also included to stop the previous land distribution process under the national agrarian reform. Despite the companies’ non-compliance with the agreement, the Philippine government has rejected the families’ motion to fulfil their RtL claims on Sicogon. Access to land and natural resources is indispensable for the realization of the RtFN and other related rights of the people of Sicogon.

## — The Right to a Healthy Environment

### 39 |

Slot Tang, Y. 2018. *The Right to Water and Sanitation in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [http://fian.org/fileadmin/media/publications\\_2018/Reports\\_and\\_guidelines/droits\\_eau\\_sanitaire\\_UK\\_web.pdf](http://fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/droits_eau_sanitaire_UK_web.pdf).

### 40 |

Cisneros, J., et al. 2014. Chapter 3: *Freshwater Resources*. In: Field, C.B. et al. (eds.): *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press: Cambridge and New York, p. 229-269.

### 41 |

Shrinking renewable surface water and groundwater resources are likely to intensify competition for water among agriculture, ecosystems, industry and other sectors with severe implications for regional water and food security. Source: Ibid.

### 42 |

Paragraph 2 of UNDROP further emphasizes rural communities' intrinsic contribution to the rehabilitation of water resources, relevant for sustainable climate actions, by "ensuring the conservation, restoration and sustainable use of water". States are also obliged to "protect and restore water related resources" (para. 4) and "prioritize water for human needs before other uses, promoting its conservation, restoration and sustainable use" (para. 5). UNDROP further underscores the importance of promoting rural communities' nature-based water management (as part of agro ecological practices), which recycle and restore water resources to increase efficiency and minimize waste.

### 43 |

Nuila H., A. 2018. *Collective Rights in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [http://www.fian.org/fileadmin/media/publications\\_2018/Reports\\_and\\_guidelines/droits\\_collectifs\\_UK\\_web.pdf](http://www.fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/droits_collectifs_UK_web.pdf).

### 44 |

The collective nature of rural communities' rights and management systems is also relevant to the rights to seeds and biodiversity, a healthy environment, and water and sanitation.

Rural communities and their agro ecological knowledge, practices, and innovations central agents in combatting climate change and adapting to its impacts. This significant role is recognized by the right to a healthy environment as defined in Article 18 of UNDROP (para 2).<sup>36</sup> UNDROP particularly recognizes rural communities' right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage" (para. 1). Article 20 further emphasizes States' obligation to promote and protect the traditional knowledge, innovation and practices of rural communities, as well as their management systems (para. 2). Moreover, Article 18 recognizes rural communities' right to participate in the design and implementation of climate change adaptation and mitigation policies (para. 3). The right to a healthy environment is particularly vital to rural communities as they are dependent on an intact nature and healthy ecosystems for their survival.

## — The Right to Seeds and Biodiversity<sup>37</sup>

Agricultural biodiversity, a component of biodiversity relevant for food and agriculture, is a prerequisite to the fulfilment of a range of human rights such as the right to life, food, health, water and an adequate standard of living. The industrial food system and extractivism, climate change and environmental degradation put relentless pressure on biodiversity. Rural communities significantly contribute to the conservation and sustainable use of biodiversity through their traditional knowledge, innovations as well as their farming practices. UNDROP emphasizes States' obligation to protect and promote these key assets (Art. 20.2) and to take measures to prevent the destruction of biodiversity (Art. 20.1).

The full realization of rural communities' right to seeds is particularly important and UNDROP reaffirms these in Article 19, including the right to use the seeds, crops and species of their choice and States' obligation to support peasant seed systems.<sup>38</sup> It further emphasizes the obligation of States to protect rural communities from impairments of this right through intellectual property rights (para. 8). Peasants' and indigenous peoples' capacity to use their own seeds and adapt them to changing environmental and climatic conditions is a core element of addressing the ecological crises.

## — The Right to Water and Sanitation<sup>39</sup>

Climate change and eco-destruction have an enormous impact on the availability, accessibility, acceptability and quality of water. The IPCC projects that for each degree of global warming, renewable water resources will reduce by at least 20 percent, affecting approximately seven percent of the global population.<sup>40</sup> For peasants and rural communities water is as it serves as a fundamental source of their survival, both for drinking water and water for farming, fishing, livestock raising, and other water-related livelihoods.<sup>41</sup> More-

#### 45 |

In case of human rights abuses, it is therefore important to protect the interest of the community as a whole and for affected communities to be able to take collective action. For example, forced evictions and displacements target a community as a whole such as in the case of Sicogon Island (see Box).

#### 46 |

Nuila H., A. and Claeys, P. 2016. *Rural Women's Rights in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*. FIAN International: Heidelberg. Available online: [https://fian.org/files/files/droits\\_fe\\_rurales\\_UK\\_web.pdf](https://fian.org/files/files/droits_fe_rurales_UK_web.pdf).

#### 47 |

Report of the Special Rapporteur on the right to food to the General Assembly. 2015. *Women agricultural workers and the right to adequate food and nutrition*. Doc. A/HRC/31/5.

#### 48 |

World Food Programme. 2009. *Promoting Gender Equality and the Empowerment of Women in Addressing Food and Nutrition Challenges*. WFP: Rome. Available at: <http://one.wfp.org/eb/docs/2009/wfp194044-2.pdf>.

#### 49 |

For example, the emigration of men to take up non-rural employment increases women's workload in the farms. In this situation women face more challenges as traditional gender roles often disadvantage them in accessing important information and excludes them from decision-making processes. Thus, these inequalities constrain their access to emergency support services and meaningful participation in decisions on adaptation to climate change.

#### 50 |

UNDROP provides rural women protection by recognizing their right to participate equally in decision-making processes relevant to food production as well as their right have equal access to agricultural credit and loans, marketing facilities and appropriate technology.

#### 51 |

Available data on female control over land underlines the need to address gender inequalities. In this context, the right to have access to, use of and management of land and natural resources – as defined in UNDROP – as well as the right to equal or priority treatment in land and agrarian reform and in land settlement schemes are crucial to rural women in times of calamities.

over, climate extremes such as floods damage infrastructure, crop yields and increases the risk of water-borne diseases. These changes have severe and negative impacts on the right to water and sanitation and other related rights such as the right to food, land and natural resources, health and housing. Article 21 of UNDROP serves as an important legal tool for rural communities to fill the current normative gap of the right to water and sanitation and provides protection with regards to water required both for production and livelihood.<sup>42</sup>

### — Collective Rights<sup>43</sup>

Climate action must be also understood as a collective commitment. Environmental destruction and climate-related impacts often affect people as a group, and not only individually. Rural communities often rely on collective rights and systems to access, use, and manage their territories. The explicit recognition of collective rights in UNDROP (arts. 15, 16, 17, and 26<sup>44</sup>) thus reinforces rural communities' ability to act as guardians of the environment and to secure their ways of life and livelihoods.<sup>45</sup>

The recognition of collective rights has long been limited to indigenous peoples. The recognition of collective human rights in UNDROP are particularly significant for rural communities to bridge the regulatory gap in international human rights law that kept those without an indigenous or tribal affiliation in a vulnerable position to assert their rights as a group.

### — Rural Women's Rights<sup>46</sup>

Peasant women and women working in the rural areas (hereafter: rural women) are responsible for more than 50 percent of global food production.<sup>47</sup> Worldwide, women and girls also represent over 60 percent of those suffering from chronic hunger<sup>48</sup>. Rural women carry a double burden as primary family caregivers and food producers. Under conditions of ecological calamities and food shortages, existing gender inequalities and discrimination often negatively impact the nutrition of women and girls. For example, when flooding and droughts occur, rural women's hardship and vulnerability worsens.<sup>49</sup>

Article 4 of UNDROP recognizes rural women's rights, putting in place important safeguards vis-à-vis abuses and violations, including those caused and/or exacerbated by climate shocks.<sup>50</sup> In general, all articles of UNDROP need to be interpreted and implemented in support of women's rights. For instance, gender-based discrimination regarding access to and control over natural and productive resources such as land and water resources lower women's adaptive capacities in the context of climate-induced conflicts.<sup>51</sup>



## 4.

### HOW TO APPLY UNDROP PRACTICALLY WITH AN ENVIRONMENTAL AND CLIMATE JUSTICE LENS?

UNDROP – using an environmental and climate lens - could be an important instrument for both the realization of the rights of rural communities (especially new rights, women’s rights, and collective rights) as well as for the rehabilitation of the environment and the whole planet.

#### — *Strengthen Collective Advocacy*

UNDROP can strengthen the collective advocacy of human rights groups and environmental rights and climate justice groups. A number of issues such as deforestation and loss of biodiversity are affecting the realization of the rights of rural communities and drive ecological degradation and climate change at the same time. For example, environmental rights defenders campaigning against agribusiness-driven deforestation could link their advocacy – using UNDROP - to the protection of the rights of rural communities (in particular the RTL, Art. 17). Deforestation is a common implication when agro food corporations grab forestlands from rural communities to convert them for industrial monocultures and livestock production.

#### — *Bolstering the Realization of Indigenous Peoples’ Rights*

UNDROP can support, for example, the realization of land rights of indigenous peoples and local communities (Art. 17) in situations where the gov-

ernment and corporations are contesting their ethnic affiliation. This often happens when agribusinesses are raising claims to forestlands that have been in the hands of indigenous peoples and local communities for generations but have yet to be formally recognized. Realizing their land rights is crucial to restore essential ecosystem services in forests. They hold an important role as stewards of biodiversity (Arts. 19 and 20) through their traditional, sustainable knowledge, innovations, and farming practices.

### — *Increase the Protection of Land Rights*

Human rights defenders can also use UNDROP (Arts. 15, 16, 17, and 26) in situations where rural communities are demanding the realization of rights to lands that they are cultivating collectively. Not only land and resource grabs but also climate-related impacts often affect rural communities as a group.

Land rights defenders could also strengthen their advocacy on agrarian justice – using UNDROP - by incorporating an environmental and climate justice dimension. As highlighted in the paper, the realization of rural communities' land rights is essential to contribute to healthy ecosystems and to increase their resiliency to climate change.

### — *Scaling up Support for Agroecology as a Response to Ecological Crises*

At the international policy level, environmental rights and human rights groups could use UNDROP (Art. 17) to scale up support for agroecology as a response to ecological crisis, for example, for the development of the Koronivia Roadmap<sup>52</sup>. Agroecology promotes agricultural practices that are not only environmental sustainable but also socially just.

#### 52 |

The Koronivia Roadmap is a guidance document, currently developed under the Koronivia Joint Work on Agriculture, a landmark decision taken at the 23rd UNFCCC conference of parties in 2017, which recognizes the crucial role of agriculture in tackling climate change. The roadmap offers an entry point for civil society groups to promote food sovereignty-based concepts such as agroecology. For more information, please visit: <http://www.fao.org/climate-change/our-work/what-we-do/koronivia/koroniviafaqs/en/>.



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