

DEFENDING AFRICAN PEASANTS' RIGHTS





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FIAN International, the FoodFirst Information and Action Network, was founded in 1986. It was the first international human rights organisation to advocate the realisation of the right to food, as laid down in the Universal Declaration of Human Rights and other international human rights instruments. FIAN consists of national sections present in Africa, Asia, Latin America and Europe. Its individual members come from over 50 countries. FIAN is a not-for-profit organisation without any religious or political affiliation and has consultative status with the United Nations.

FIAN envisions a world free from hunger, in which every person fully enjoys human rights in dignity, particularly the right to adequate food.

Mission:

FIAN exposes and addresses violations of people's right to adequate food wherever they may occur. We stand up against unjust and oppressive practices that prevent people from feeding themselves and their families. The struggle against gender discrimination and other forms of exclusion is integral part of our mission. We strive to secure people's access to the resources they need in order to feed themselves, now and in the future.

What we do:

FIAN analyses and documents concrete cases of violations of the right to adequate food. We raise awareness on the right to adequate food among social movements, non-governmental organisations, governmental bodies, and the general public. We respond to requests from individuals and groups whose right to adequate food are threatened or have been violated, and mobilise support. With protest letter campaigns, advocacy and recourse to the law, we exert public pressure in order to hold governments accountable for violations of the right to adequate food. We follow up cases until the victims get appropriate redress. Within the United Nations system and other legal regimes, we advocate respect for human rights in order to strengthen and improve the international human rights protection.

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Preface

Three quarters of the world's hungry people live in rural areas and the majority of them are peasant farmers. An important reason for this problem is their marginalisation in national and international agricultural policies including trade. The situation is particularly severe in Africa. Food production for domestic consumption in Africa is mainly in the hands of peasants, most of them women. Unfortunately, peasants are often not properly recognized within their own societies. They have to work without much support from their states or the international community. Under structural adjustment such support, where it existed, was largely dismantled. The percentage of the hungry is higher than in any other continent and growing faster than anywhere else. Trade does not necessarily contribute to the economic prospects of smallholder farmers. They often only have a small share of the export economy and at the same time are most likely to be affected adversely by cheap and often subsidized agricultural imports, for example from the EU.

The marginalisation of African peasants is essentially a human rights issue. Their rights need to be asserted and implemented in agricultural policies. African peasants' rights are human rights applied to the specific situation of the African smallholder farmers, pastoralist and fisher folk involved in struggles to defend and improve their livelihoods. The purpose of this booklet is to provide a brief overview of some threats they are facing, of the human rights tools available to them and their support groups and of some political developments supporting their rights.

The booklet uses the term peasants for community-based farmers and small-holder farmers, and sometimes in an extended sense also for pastoralists and fisher folk. It should be kept in mind that many if not most of African peasant farmers are women.

The tools and processes described can be useful both domestically in Africa, and also internationally, for example when campaigning with the EU, the UN, FAO etc..

The booklet is meant for African CSOs and peasants' organisations, but also for CSOs and government authorities in Europe: European trade and development policies towards Africa urgently need to be changed to defend African peasants' rights.



1. Current threats to African peasants

In recent years four specific threats emerged for the rights of the African peasant farmers. There are first of all the trade-related threats emanating from Economic Partnership Agreements (EPAs) and the Doha round of the WTO, secondly the increasing phenomena of off-shore farming in Africa as a result of the food, fuel and financial crises, thirdly the propagation of industrialized agriculture in Africa including agribusiness, and fourthly the direct effects of climate change.

1.1. ECONOMIC PARTNERSHIP AGREEMENTS AS WILD TRADE AGREEMENTS

Pushing for Economic Partnership Agreements (EPAs) is one of several ongoing European initiatives trying to drastically reduce the policy space of African states to protect their markets and their vulnerable producers. Risks associated to trade agreements are not limited to EPAs. It should be kept in mind that even within the current trade regime European imports are threats to markets of African peasant farmers.¹ When the local dairy industry in Kenya collapsed under the European imports in the 1990s, 600000 Kenyan dairy farmers were plunged into poverty. The sector has now recovered after the government raised import tariffs from 25% to 35% and finally to 60% in 2003.² In Ghana, imports of tomato products from Europe badly affect market access of local tomato farmers. In West Africa import surges of poultry destroy the livelihoods of many poultry farmers. IMF and EU have intervened against protective attempts of African governments.³ The "safeguard measures" included in EPAs are insufficient to protect African peasant farmers from such imports. In fact, EPAs will facilitate foreign business efforts to conquer African markets.

1 Cf FIAN International (www.fian.org) (ed.) Reports of investigative missions: The right to food tomato and poultry farmers in Ghana (2007), The right to food milk and maize farmers in Uganda (2009)

2 Oxfam Briefing paper 110 / Partnership or Powerplay (2009)

3 FIAN International / 'The right to food of tomato and poultry farmers in Ghana' (2007)

- EPAs as a new tool to conquer markets and secure access to cheap raw materials

EPAs go far beyond the market access pushed through by the OECD countries in the WTO agreements.⁴ The African Union has been resisting the pressure tactics of OECD countries within the WTO. For this matter the EU changed its strategy from the WTO to the subregional or bilateral levels to conclude EPAs with African countries. The USA has been using similar tactics in different parts of the world.

The EPA initiative dates back to the year 2000 when the Cotonou agreement between Europe and its former colonies (the so called ACP-countries) was signed which already includes reference to EPAs to be concluded by the end of 2007. In November 2001 the WTO ministerial conference at Doha called upon such agreements to end discrimination of non-ACP countries. In 2002 negotiations started. The EU created great pressure on African countries by insisting that they would have to essentially open their markets to European imports as a condition for not being taxed for their exports to the EU even after 2007. EU negotiators claimed that such measures were required by the WTO. Europe's existing schemes, however, would have allowed for other WTO-consistent options which would have safeguarded African policy space for protecting its peasant farmers and infant industries: Africa needs trade regulations such as those used in history and even now by the EU, the USA and others to build up their productive capacities.

- The five destructive elements of a typical EPA

A typical EPA requires the opening of markets in Africa for essentially all imports from Europe. Only 20% can be excluded and be put on a list of "sensitive products". Moreover a "standstill clause" requires African states to freeze all their import tariffs immediately at current rates. A third

dangerous element of EPAs is the "Most favoured nations clause" which makes it mandatory for African states to offer to the EU the same tariffs which they offer to other major trading partners. This clause prevents the development of subregional markets for African peasants. A fourth detrimental element are proposals to adopt a treaty (UPOV 1991) which would essentially prevent farmers from saving and exchanging seeds and would make them dependent on transnational seed companies and their "intellectual property rights". A fifth element is the freeze of export taxes and duties which would discourage diversification and value addition for African economies and keep Africa a supplier of raw materials to Europe.

The potential trade gains from EPAs to African peasants are minimal: 34 out of 47 African countries negotiating the EPAs can have tax-free access to EU markets anyhow under a special arrangement for least developed countries. It should also be kept in mind, that the potential gains from preferential access to EU markets may essentially disappear in the next 5 to 10 years as the EU is negotiating a complete opening of its own markets for similar countries outside the ACP as well (in return for open access to those countries' markets). Other gains projected by the EU to convince resisting African governments of EPAs are transfers from the European Development Fund.

- Attempts to break African hesitation and resistance

Towards the end of 2007, the EU applied pressure tactics, breaking sub-regional negotiation blocs in Africa trying to arrange for interim EPAs with individual countries, thereby overriding African moves to sub-regional integration of markets.⁵ Nevertheless most African countries refused to sign EPAs. There are so-called interim EPAs⁶ of the EU signed by Ivory Coast, Cameroon, Botswana, Lesotho, Swaziland and Mozambique. Moreover

⁴ There is a lot of literature on this aspect of EPAs, for example the Oxfam Briefing paper 110 op.c, Oxfam Briefing paper 101 / Signing away the future (2007), or Berlow, Schultheis, Impact of EU's agricultural trade policy on smallholders in Africa, edited by Germanwatch 2007.

⁵ Oxfam Briefing paper 110 / Partnership or Powerplay (2009)

⁶ As of August 2009. Interim agreements are mostly confined to trade in goods – sufficient for WTO compatibility. The EU wants to include further commitments ("full EPAs") on services, intellectual property privileges and others.

there are interim EPAs initialled (but not signed) with Ghana, the East African Community countries (sub-regional agreement) and 6 of the 11 members of the ESA group (ESA: Eastern and Southern Africa). There is still room for rejection or renegotiation.

Free trade is a promotional slogan to pave the way for transnational corporations. Free trade, in fact, is a euphemism, as peasants do not gain any freedom to trade in such free trade agreements as they lose their key national and sub-regional markets to European imports without gaining any significant additional access to European markets. Moreover African countries, if they use the provision on "sensitive products" to protect their peasants, will not be able to protect their manufacturing industry. These infant industries, however, are necessary to add value to peasants' products and hence build up the national productive capacity. Such agreements should rather be called wild trade agreements, in so far as they destroy the policy space for states to meet their obligations under economic, social and cultural rights. African firms would have to compete with European (and other) corporations for the natural resources and markets of their own country. This would mean the massive destruction of African peasants' livelihoods and could spell social disaster.

1.2 OFF-SHORE FARMING, AGROFUELS, SPECULATION AND CLIMATE CHANGE

It is not only the Europeans and the USA who are looking for Africa's soils and waters – by now it is also China, Korea, India, and some Arab countries – as well as major speculative global funds seeking new forms of profits for the capital they manage.

The food crisis – off shore farming

In spite of the ongoing destruction of African ecosystems, Africa is still rich in natural agrarian resources compared for example with Arab countries or China. China for example lost 6.6% of its arable land between 1996 and 2006, largely through land conversion. One-sixth of China's total arable lands is polluted by heavy metals, and more than 40 percent are degenerated due to erosion

and desertification.⁷ At the same time demand for agricultural lands is increasing rapidly as peoples shift from low levels of meat and dairy consumption to high levels.

The crudest form of "off shore farming" means the complete takeover of large stretches of African agricultural lands by foreign corporations which produce with their own foreign workers for their home markets. No matter whether the land is bought or rented and how much income it may generate for African elites – it is lost for the African peasants today and probably in future, with the proceeds largely by-passing them. Those African countries, which feel they have more than sufficient arable land unused by their own farming population so that they can share it with foreign countries, should think of future needs in view of their growing populations. For the rights of African peasants it is insignificant whether these foreign corporations (currently) employ some landless African farm labour or (currently) produce for the local market. Bilateral investment agreements can make it very difficult for African governments to regulate these corporations⁸ and meet their human rights obligations.

A less spectacular way of off-shore farming is contract farming. It leaves the African peasants in the possession of their land, but fully regulates their production methods and targets under the management of the corporation. This forecloses African peasant agriculture and makes the peasants employees on their own lands.

The struggle against off-shore farming has just begun. In Madagascar, the attempt of Daewoo Corporation (South Korea) to take over 1.3 million hectares of arable land in the country has led to strong popular resistance. In Mozambique, Kenya and other countries, off-shore farming continues.⁹

Off shore farming in Africa is relevant for all types of

7 Yingling Lui, <http://www.worldwatch.org/node/3912>

8 On the risks of bilateral investment treaties for human rights see S.Anderson, S.Grusky / Challenging Corporate Rule, 2007 at food&water watch, IPS - and L.Peterson / Human Rights and Bilateral Investment Treaties, 2009 at Rights and Democracy.

9 Literature on off-shore farming can be found for example at GRAIN's website, <http://www.grain.org/nfg/?id=610>

agrarian products of interest for agro-business, and foreign governments. When the G8 summit in Italy in July 2009 talked about international investment in agriculture – under an initiative headed by Japan - they seemed to mean just that: Using African lands to produce for their home markets in order to keep food prices there low.¹⁰ The main stake-holders, African peasants, are very often absent from any related discussions or decisions of their own governments or of the international community, although it is basically their resources which are at stake.

- The fuel crisis - farming for agrofuels

Traditionally it has been foreign food and fibre demands which are satisfied by African soils, waters and labour. Recently, however, transnational corporations have been increasingly looking for African resources to produce agrofuels, as the energy intensive production methods and life styles in the industrialized countries will start running out of fossil fuels. Moreover the use of fossil fuels has contributed to climate change. A discussion of the challenges provided by climate change is beyond the scope of this short presentation. It should, however, be noted that climate change provides strong arguments in favour of a peasant-based agroecological agriculture.¹¹

Some African peasants may think they could benefit from the agrofuel boom. This, however, is unlikely. Why should this happen with agrofuels, if it did not happen with other African export crops? The issue is not the product, but how it is produced – and whether the policy environment is conducive for peasants.

One issue needs to be noted, however: The possible demand (mainly) of industrialized countries for agrofuels is enormous – and agrarian resources have therefore gained a new significance. Agrofuel farming for the rich industrial countries, of course, competes with staple food farming for and by



¹⁰ www.flex-news-food.com/console/PageViewer.aspx?page=24786&print=yes

¹¹ Jonathan Ensor, Biodiverse agriculture for a changing climate, www.practicalaction.org.uk

African peasants. African agricultural policies have to put food first in order to overcome the inherited structural distortion of their agrarian sectors.

- The financial crisis - speculating with African peasants' lives

Off-shore farming, agrofuels and similar projects are further aggravated by speculative techniques of hedge funds and private equity funds exaggerating the upswing (and downswing) in food and land prices – to the detriment of peasant farmers who might fall prey to such volatility of prices: Peasants, too, need to buy food – especially if they plant cash crops. And first of all: Peasants need land and have to resist being bought out and just left with some monetary compensation – if any – which does not last long. As the financial crisis has turned into an economic crisis, there is growing interest in these sectors. Hence booming areas such as agrofuels and corporate food¹² are much sought after. Using derivatives, hedge funds are now even involved in projects which otherwise would seem too risky.¹³ All of this has fuelled a rush of companies to buy or lease land and invest in food production and agrofuels. When it comes to access to land there is a stark contrast between the gambling hedge funds on the one hand and on the other hand the African peasants needing the land for survival.

- Climate change

Climate change has the potential to further aggravate the situation of peasants in many African countries. The area suitable for agriculture, the length of growing seasons, and the yield potential, especially along margins of semi-arid and arid areas will decrease throughout Africa. Yields from rain-fed agriculture might have decreased by as much as 50 percent in some countries already by 2020.¹⁴ By that time the number of people under water

stress could have risen from 75 to 200 million. Rising water temperatures in the lakes would have a negative impact on the stocks of fish, which are already now under heavy pressure from overfishing. Fish is an important source of protein. Fishing in Lake Victoria, for example, is an important food source for 30 million people. Smallholder farmers, pastoralists and fisher communities are among the groups most vulnerable to climate change. They are experts in dealing with climatic problems, but the additional stress introduced by climate change may go beyond their coping strategies.

There is an urgent need to assist peasants in climate change adaptation strategies. The issue was hardly dealt with in Africa until comparatively recently: The first major document was the Addis Ababa Declaration on Climate Change and Development of 2007. Industrialized countries as the main sources of climate change carry a particular responsibility to assist the victims – most of them African peasants¹⁵.

1.3 AFRICAN AGRICULTURE – WITHOUT PEASANTS?

Land productivity in most of African peasant agriculture is very low – far below international averages. Together with high population growth this resulted in Africa being the only region in the world with declining per capita food production. Among the many interlinked reasons for the low yields are: Poor soil nutrient quality, inadequate use of water resources, ill health of the peasants due to under-nourishment and diseases, poor infrastructure, lack of access to technologies suitable for them to feed themselves and the populations in their countries, lack of cash for investment, bad governance. In general peasants get only very little support to address these problems – from their own countries or from the international community. Lack of support also has to do with the lack of recognition of peasants by the elite in many African countries (and elsewhere) – sometimes more than with the

12 Peter Wahl, Food Speculation: The main factor of the price bubble in 2008, www.weed-online.org, 2008

13 For details cf. Nicholas Hildyard / The crumbling wall of money, The Corner House, UK, 2008

14 International Panel on Climate Change, 2007, www.gtp89.dial.pipex.com/spm.pdf

15 For further details cf. Bals, Harmeling, Windfuhr, Climate Change, Food Security and the Right to Adequate Food, BfdW, Diakonia, Germanwath, Stuttgart 2008

lack of funds. There is a major threat that this lack of recognition of its own peasant farmers will make African countries go along with foreign agribusiness to promote a model of agricultural development which could ruin many peasants.

- CAADP and the Maputo Declaration

The Comprehensive African Agricultural Development Programme (CAADP) was launched as an initiative by the African Union in Maputo, Mozambique, in 2003, together with a pledge to increase budgetary means for agriculture to 10% of the national budgets – a pledge which so far has been implemented only by 10% of the countries¹⁶. The drafting of CAADP was facilitated by the FAO. The programme has a relatively technocratic orientation encouraging countries to present bankable investment projects. CAADP consists of four pillars: (1) Land and water management; (2) rural infrastructure and trade-related capacities for market access; (3) increasing food supply and reducing hunger; (4) agricultural research, technology dissemination and adoption. Agribusiness plays a major role in policy advice, research and dissemination. CAADP is a framework to be adapted by African countries. So far only Rwanda has signed a CAADP compact (in 2008). Even though CAADP may be decisive for the future of African peasants, African farmers' organisations have not appropriately participated in the formulation of the pillars.

- An African green revolution – for peasants or for agribusiness?

Land productivity increase has to serve the peasants – otherwise it will not reduce hunger. For this matter, productivity increase has to take place on their fields, with sustainable low cost methods accessible to peasants and controlled by their communities. Such agro-ecological technologies exist and a large number of pilot projects in Africa gave evidence that they doubled and triple the

¹⁶ Norberto Mahalambe, CAADP Implementation: What difference can 10% make in advancing African agriculture, ActionAid 2008

yields. What is needed, however, is an enabling institutional and political environment.

It is sometimes said that Africa needs a “green revolution”. This is often identified with a package of seeds with high response (to chemical inputs), fertilizers, pesticides, and improved irrigation. On the one hand this package greatly increased yields in Latin America and Asia since the 1950s. On the other hand this type of green revolution severely damaged ecosystems and further marginalised peasants (in part through land concentration). Many peasants got indebted and ruined. There is evidence that mineral fertilizers can double and triple yields in Africa. They are often costly, however, and out of reach of peasants unless they are subsidized - or unless peasants are provided cash transfers to buy these and other inputs. The Asian peasants’ experience with credits should be a warning to their African colleagues. An “African green revolution” is a slogan also used by funders who support the development of agribusiness and of genetically modified plants. This can include important risks for African peasant farmers.

African peasants have human rights – among them the right to information about the matters concerning them - and the right to political participation in making choices. They have to know about the different agricultural options¹⁷, and have to participate in the respective policy development to make sure that their basic economic, social and cultural human rights are safeguarded.

¹⁷ For a discussion of different options, see UK Food Group, More Aid for African Agriculture, Policy implications for small-scale farmers, 2008



2. Human rights tools in defence of African peasants

2.1 HUMAN RIGHTS CONCEPTS FOR AFRICAN PEASANTS

African Peasants' rights are human rights – applied to the specific situation of African pastoralists, fisherfolk and to its small-scale farmers – many if not most of them women. Human rights are essentially political concepts on the nature of states and of the community of states at the service of human beings' basic necessities. Human rights put obligations on states and bestow African peasants with rights – each and every one of them, as human rights are individual rights.

The implementation of human rights in law is part of this concept. Human rights do, however, exist before they are recognized in law. Human rights are first of all and above all the inalienable property of every human being. African peasant organisations have to take possession of this property, make human rights their own, and interpret them according to their specific needs and circumstances. It is from this position of self-confident ownership that the rest of this section should be read. It is not governments, not legislatures, not judges, nor professors - let alone the negotiators and arbitrators hired by transnational corporations – who can tell peasants what their rights are.

Can everybody then make up their own human rights? Are the human rights of a peasant different from the human right of an urban worker or a foreign investor? They are not. A crucial feature of human rights is their universality: Their basic ideas, structure, elements are the same everywhere, but they have to be adjusted to the situation at hand according to agreed rules. For African peasants this universality is important as well – because it allows them to frame their needs and demands in terms of concepts which are easily understood outside the their organisations and even outside their country or outside Africa. And it refers to basic standards which are widely accepted and need no further discussion. Peasants' rights are not a different word for their particular interests. Peasants' rights mean nothing but peasants' rightful place in a national and international order which is based on human rights.





- Human rights as sources of states obligations

The basic idea of human rights is to specify what we all are entitled to (“the object of the right”) and what states therefore have to do or to refrain from doing (“states obligations”). Moreover human rights envisage that institutions are created which allow a victim of states’ wrongdoings to get remedy: A change in policy, compensation for damage incurred, guarantees for non-repetition of wrongdoings, punishment of the persons responsible for the states’ wrongdoings. So human rights consist of these three elements which can be further specified for the situation of peasants:

- 1) The object of the right – human necessities to which everybody is entitled under this right;
- 2) The states’ obligations to respect, protect and fulfil the enjoyment of these necessities;
- 3) The reliable mechanisms by which victims of breaches of these obligations can make states actually satisfy these duties.

Necessities for African peasants are food and water, land, seeds, livestock breeds, markets, health services, education, information. Other necessities are sustainable and locally controlled production technologies and related knowledge, the possibility to create their own independent organisations, political participation in the formulation and implementation of policies affecting them, the assurance of a fair trial and physical security.

- States’ respect- and protect-bound obligations

For many if not most African peasants these basic necessities have been destroyed or are threatened by destruction. On the one hand the states obligations to respect and protect peasants’ rights are meant to prevent this destruction: States are obliged to protect peasants for example against their lands being taken by mining companies or by foreign agribusiness (without appropriate consent, rehabilitation and compensation). States also have to prevent that peasants’ markets are destroyed by import surges from the EU or elsewhere. Their

traditional knowledge and seeds is under threat of being privatized by private companies and commercialized and states are obliged to intervene on behalf of peasants' rights. In all these cases the destruction is essentially a result of the activities of private business, mostly companies. Of course, states must not destroy peasants' basic necessities through their own activities, for example by forced evictions from land in the context of big dams, or by signing away African peasants' access to their markets and seeds in investment agreements with foreign state. These are breaches of the states obligation to respect African peasants' enjoyment of their rights.

- States' fulfil-bound obligations

The states' obligation to fulfil puts the duty on states to provide these basic necessities – or to facilitate access in those cases, where African peasants can establish these necessities by themselves. Under these obligations states must provide transfer programmes (in cash or food) to peasants immediately threatened by hunger and starvation. States must provide secure access to cash for investments to cash-starved African peasants. States must facilitate or provide access to land for landless peasants. States have to provide schools and health posts, roads to facilitate market access and knowledge exchange to support sustainable production etc..

Whereas respect-bound obligations do not require states' resources and can be implemented immediately, fulfil-bound obligations do require resources and will not immediately lead to results. The respective planning, benchmarking and budgetary provisions (to the maximum available resources) have to be made immediately, however, and the implementation of these measures has to be undertaken as quickly as possible.

- Extraterritorial states obligations

Each African peasant or pastoralist has the right that the state in which she or he resides meets these obligations. Moreover foreign states have human rights obligations towards African peasants, too - even states outside Africa. Under these

extraterritorial obligations European states, for example, have the same respect-bound obligations towards African peasants as if these lived in Europe. Extraterritorial obligations to protect and to fulfil towards African peasants require at least that the foreign state cooperates and assists the peasants' or pastoralists' own state in its duty to protect against destructive acts of third parties and in the fulfilment of their necessities. One example of extraterritorial obligations going beyond this general duty to cooperate, is foreign states' obligations to protect against the activities of organisations (such as TNCs) registered or headquartered in their countries.

- Human rights violations: What they are and how to address them

A state breaching any of these obligations violates the human rights in question. Moreover a discriminatory implementation of a fulfil- or protect-bound obligation is a violation of human rights. It should be kept in mind that only states (and their national or international authorities) can violate human rights, as a violation of a human right is a breach of states' obligations. Quite often a violation of a human right is also illegal: It is in breach of national or constitutional law, or of international law.

Whether this is the case or not, depends on the legal status of human rights in these legal regimes. It is therefore important to know - and improve - the legal strength of African peasants' rights. How African peasants can make use of human rights, however, does depend only partially on the legal status of these rights.

Whether and how peasants or their representatives or advocacy groups make use of available human rights mechanisms is a question of strategy. Court procedures are not the only means to defend rights. What counts in the end for the case at hand is a certain political measure to be taken by states. If a state finally decides to take the required measure, it is irrelevant whether it did so because of a court order or because the victims and their support groups used public human rights platforms for quasi-legal procedures or took to rights-based political mobilisation. Each struggle won for a human rights case (with or without a

court) strengthens human rights beyond the case at hand. If this case is won through a judicial decision, however, this positive spin-off will have an additional potential to influence future decisions of administrators, politicians and judges in similar situations by setting a legal precedent.

African peasants could contribute significantly to further develop human rights concepts and implementation – in particular for economic, social and cultural rights - which are crucial for their survival.

2.2 THE AFRICAN UNION'S HUMAN RIGHTS SYSTEM

How can African peasants use human rights tools in addressing violations of their rights? One prerequisite for doing so is some basic knowledge of (and link to) the human rights protection systems of the African Union and of the UN. African peasants or their representatives should not rely on these systems, however, but should use them as one of the elements in their strategies. These systems have their short comings, and cannot be stronger than the political will of the states running them. Nevertheless they provide important platforms where community-based organisations, civil society groups, independent experts and governments can meet on issues of African peasants' rights.

The African human rights system consists of the African Charter on Human and Peoples' Rights of 1981, the African Commission on Human and Peoples' Rights (ACHPR) that came into being in 1987, the African Court on Human and Peoples' Rights, which was established in 2004, and the Protocol on Rights of Women in Africa which entered into force in 2005.

The African Charter contains a number of economic, social and cultural human rights which are of relevance for African peasants. Even though the Charter itself does not mention the human right to food, this right and other rights related to economic, social and cultural rights such as the right to land and means of production are part of the Protocol on the Rights of Women in Africa. It should also be noted that the African Charter on the Rights and Welfare of the Child incorporates relevant rights for



the defence of peasants' communities. This charter and its Committee of Experts are also part of the African human rights system.

- The African Commission on Human and Peoples' Rights

The ACHPR is tasked to promote and protect human and people's rights and to interpret the African Charter for Human and Peoples' Rights. It is based in Banjul, Gambia, and consists of 11 members elected in secret ballot by the Assembly of Heads of States and Governments of the AU for a six-year renewable term. These members are "chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights" (Charter, Article 31). They serve in their personal capacities and enjoy full independence. The ACHPR meets twice a year in Banjul or another African capital.

The Commission is mandated to "collect documents, undertake studies and researches on African problems in the field of human and peoples, rights, organise seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights and, should the case arise, give its views or make recommendations to governments" (Charter, Art. 45). It has the mandate to receive inter-state complaints as well as "other communications" on which the individual complaints procedure of the Commission is established. (arts 46-58) According to article 62, Member states are required to submit periodic reports which the Commission is authorized to examine. Moreover the Commission has thematic Special Rapporteurs as well as Working Groups – one of them on economic, social and cultural rights. Civil society organisations can submit reports. The African Commission reports to the Assembly of Heads of State and Governments of the African Union.

The African Commission is also important when it comes to interpreting the Charter. The human right to food is an example: Even though the Charter does not contain any provision guaranteeing the right to food, through a decision of the African

Commission on Human and Peoples' Rights, *SERAC v Nigeria* (2001), the above Charter was understood to include a right to food. The Commission employed an interpretation by a combined reading of such provisions as right to life (Art. 4), right to health (Art. 16) and the right to economic, social and cultural development (Art. 22), to accept that the right to food is implicit in the African Charter. According to the Commission, the African Charter and international law required Nigeria to protect and improve existing food sources and "to ensure access to adequate food for all citizens". It forbade the Nigerian Government to destroy or contaminate food sources thereby impeding peoples' efforts to feed themselves, or to allow private parties to do the same.

The African Charter is unique for its emphasis on peoples' rights along with human rights. Moreover it mentions individual duties along with individual rights. Nevertheless human rights essentially vest rights with individuals and duties with states. The mention of peoples' rights should also not be used to undermine human rights, but to strengthen them by underlining that human rights are rights of persons in community. Peoples' rights are only legitimate in the human rights context if they grow out of the human rights of persons in community, as in the African Charter which reflects the colonial experience and the traditions of the African peoples.

-The African Court of Human Rights

The African Court is based in Arusha, Tanzania. It was recently established, in 2006 its eleven judges were elected, in 2008 they dealt with the rules of procedures. The jurisdiction of the Court extends to all cases and disputes submitted to it concerning the interpretation and application of the Charter, of the Protocol establishing the Court and of any other relevant Human Rights instrument ratified by the States concerned. The Court offers an interstate complaint procedure. Moreover cases can be submitted by the ACHPR and African IGOs. Moreover – and this is the most interesting aspect for African peasants – individuals and relevant CSOs with observer status to the ACHPR can submit cases to the court, when they concern states which have explicitly opened up for this possibility in a general declaration at the time of ratification or thereafter.

2.3. THE UNITED NATIONS' HUMAN RIGHTS SYSTEM

The UN Human rights system started with the UN Charter of 1945 and its reference (in art.55) to human rights as a purpose of the UN. Much of international human rights law emanates from art.55, and the subsequent Universal Declaration of Human Rights of 1948. The two International Covenants on Economic, Social and Cultural and on Civil and Political Rights of 1966 are further codifying the Universal Declaration and are the beginning of human rights treaty law which now consists of dozens of human rights conventions. The fundamental importance of human rights in the UN Charter makes international human rights law superior to other fields of international law – such as trade law.

The UN human rights system consists of a Charter based system and a treaty based system. Both systems provide African small holders and their support groups with important terms of reference and interesting platforms for action.

- The Charter based system

The UN Charter based system underwent a reform in 2006, when the United Nations Human Rights

Council (UNHRC) was established as an inter-governmental body replacing the former United Nations Commission on Human Rights. It is based in Geneva, Switzerland, and tasked to make recommendations to the UN General Assembly about situations in which human rights are violated. The UNHRC has no authority except to make recommendations to the General Assembly. In particular there is not human rights court in the UN system. In 2007, the UNHRC adopted its institution-building package, which provides elements to guide it in its future work. Among the elements was the Universal Periodic Review (UPR). The UPRs assess the human rights situations in all 192 UN Member States. In a UPR civil society groups can raise violations in the country under scrutiny. Moreover the UNHRC has a Complaints Procedure, which allows individuals and organizations to bring complaints about human rights violations before the Council.

The UNHRC works closely with the Geneva-based Office of the High Commissioner for Human Rights (OHCHR) and engages the United Nations' Special Procedures by appointing Special Rapporteurs to investigate, monitor and recommend solutions to human rights problems. They often conduct fact-finding missions to countries to investigate allegations of human rights violations. They can only visit countries that have agreed to invite them. Thematic Special Rapporteurs are typically appointed to serve for 3 years, after which their mandate can be extended for another 3 years. Country Special Rapporteurs are appointed to serve for 1 year, and their term is renewed every year. Aside from fact-finding missions, Rapporteurs regularly assess and verify complaints from alleged victims of human rights violations. African peasants can make use of these special procedures to raise patterns of violations or individual violations.

- The treaty based system

The treaty based human rights system by now contains a considerable number of international conventions with their respective monitoring bodies. These Committees receive the reports of the states parties to the respective Covenant or Convention and which are due normally every 5 years. The Committees consist of independent

experts who scrutinize the reports and formulate their concluding observations. African peasants can provide parallel reports to these states reports. Many Committees have developed the practice to take such parallel reports into consideration in their work so that points raised by African peasants can become part of the Committees' recommendations directed to violating governments.

For African peasants, pastoralists and their related CSOs the most interesting Committees are those on the two Covenants and on the Elimination of Discrimination Against Women. Peasants can bring complaints about violations of their rights before both these Committees – at least for countries which ratified an additional protocol.¹⁸ These supervisory bodies meet twice or three times a year for a few weeks per session. The sessions also provide days of discussion on substantial issues – and room for parallel events by African peasants to further enlighten the independent experts on violations suffered by the peasants and pastoralists. Access to these platforms for African peasants and their support groups can be facilitated by Geneva based human rights services and by international human rights organisations.

International human rights organisations such as FIAN also carry out trainingS in African countries on the UN and African human rights systems for peasants and/or their support groups. Moreover they address (together with the victims) violations of African peasants with international human rights bodies, national governments and intergovernmental organisations. Such organisations can be useful allies for African peasants when it comes to international campaigning or urgent actions. They have also taken the human rights struggle beyond the human rights systems to other parts of the international setup such as the FAO, the WTO, the ILO, the WHO, the UNDP and increasingly throughout the UN system.

¹⁸ The 2008 Protocol to the Covenant on ESCR will be in force after the 10th state has ratified.





3. Political developments in support of African peasants' rights

3.1 THE AFRICAN PEASANTS ARE GETTING ORGANIZED

The historical experience of African peasant has been bitter. They were humiliated, exploited, and marginalized. No wonder that peasant agriculture is not attractive to many in the young generation - neither as a way of life nor as a way of earning one's living. Moreover agribusiness propagates everywhere - not only in Africa - that peasant agriculture is an exit model. African peasants - many of them women, illiterate and embodied with a sense of marginalisation and powerlessness - have a difficult time to articulate their rights and become political actors. The first step to do so is empowerment by asserting their dignity, and by taking possession of their human rights as their legitimate property. The second step is getting organized to defend one's rights.

Organizing the peasant farmers in Africa is a great challenge, but progress has been made both on national, subregional and regional levels: SACAU, EAFF, PROPAC and ROPPA, have emerged as networks of farmer organisations in Southern, East, Central and West Africa. After more than five years of working together to improve feasibility of the NEPAD and warn the world of the EPAs, they founded the Pan African Farmers' Platform in Addis Ababa in May 2008 "as a powerful lever to promote a resurgence of African agriculture so that it can fulfil the functions of any agriculture worthy of its name."

Another emerging network that progressed in Africa in 2008 is La Via Campesina Africa. La Via Campesina (LVC) is the international movement of peasants, small- and medium-sized producers, landless, rural women, indigenous people, rural youth and agricultural workers. LVC was founded in 1993 and has members in 56 countries of Asia, Africa, Europe, and the Americas. Its principal objective is to develop solidarity and unity among small farmer organizations in order to promote gender parity and social justice in fair economic relations; the preservation of land, water, seeds and other natural resources; food sovereignty; sustainable agricultural production based on small and medium-sized producers. In Africa it

has two subregional secretariats – in Bamako, Mali and in Maputo, Mozambique. In Maputo, LVC had held its Fifth International Conference in October 2008, and launched a Global Campaign for an International Convention on the Rights of Peasants. After 2010 the International Secretariat of La Via Campesina, which has been rotating from continent to continent, will be located in Africa.

3.2. THE CAMPAIGN FOR AN INTERNATIONAL CONVENTION ON THE RIGHTS OF PEASANTS

Pro-agribusiness policies promoted by a removal of peasants' protection and support have led to the ongoing destruction of peasant agriculture and eco-systems and violated peasants' human rights world wide. In order to uphold the rights of the peasants and to ensure that states meet their human rights obligations in this context, LVC calls for an International Convention on the Rights of Peasants (ICRP) institutionalizing the rights of the peasants in the international human rights system.

The ICRP is meant to address all forms of violations of rights of the peasants, such as expropriation from lands and alienation from sources of livelihoods; the processes of privatization of land, which have led to a concentration of land ownership; the dismantling of rural public services; the fostering of highly capitalized and high-inputs agro-exportation; the push toward the deregulation of agricultural trade and toward policies of food security based on international commerce; the creation and world-wide-selling of GMO seeds; the double marginalization suffered by women, as peasants and as women; the violent oppression and criminalization of peasants fighting for their rights. Some specific peasants' rights currently discussed to be included among others in the new Convention are the rights to agrarian resources, to seeds, to traditional agricultural knowledge, to capital and means of agricultural production, to information, and to biological diversity.

The initiative for an ICRP has been gaining ground also outside LVC, for example in the human rights community. For African peasants and their organisations a Convention on the Rights of



Peasants and the struggle for it could be useful to challenge the dominant paradigms and the crises they produced and to raise the issue of food sovereignty.

3.3 FOOD SOVEREIGNTY

A most important tool for African peasants is the concept of Food Sovereignty as reflected in the Declaration of Nyéléni, Mali, where 500 people from 80 countries met in February 2007 to set the agenda for the future of food and agriculture:

“ Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agricultural systems. It puts the aspirations and needs of those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations. It defends the interests and inclusion of the next generation. It offers a strategy to resist and dismantle the current corporate trade and food regime.”

3.4 THE IAASTD: CALLING FOR A DRASTIC POLICY CHANGE IN FAVOUR OF PEASANTS

One of the ideological tools for propagating the pro-agribusiness policies detrimental to the rights of African peasants is the claim that mineral fertilizers, pesticides, mono-cultures and other capital- and energy-intensive inputs (and genetically modified plants) are necessary “to feed the growing world population”. In defending their rights against such propaganda, African peasants could and should make use of the “International Assessment of Agriculture, Science and Technology for Development (IAASTD)”. This report¹⁹, produced by 400 scientists after 3 years of work, came to the conclusion that a drastic policy reform is necessary in order to fight hunger and establish sustainable development – a policy reform geared to the needs and rights of peasants. The IAASTD was supported

by several UN organisations and has meanwhile been approved and signed by 58 governments.

IAASTD confirmed that biologically diverse, agroecological farming and grazing methods, especially those that are - or can be - practiced by peasants, particularly women, makes agriculture more capable of eliminating hunger and rural poverty. IAASTD recognized the important services which peasants provide already today for feeding their peoples, for guarding eco-systems and the future viability of human societies. The IAASTD concluded that the agricultural policies of the past 50 years have uprooted large parts of the peasant communities, led to landlessness and rural joblessness and exacerbated the social problems in the cities. Moreover the ecological impact had been disastrous: Pollution and destruction of resources – soils, water, biodiversity.

The scientists emphasized that the potentials of peasants for sustainable gains in productivity, poverty reduction, and adaptation to climate are much higher than in industrial agriculture. A recent study commissioned by UNEP/UNCTAD documents agroecological experience in Africa doubling per hectare yields.²⁰ The IAASTD criticized the political neglect of the potentials of peasants, and in particular of women peasants who are the majority of farmers. The scientists call for the integration of different local, traditional and modern agroecological knowledge systems. The respective techniques have to be made locally available. This requires a drastic policy change. African peasants’ rights may get strengthened if IAASTD gets further institutionalized and can follow up on its research and recommendation.

19 www.agassessment.org

20 UCTAD, UNEP (ed), Organic Agriculture and Food Security in Africa, 2008

Six Principles of Food Sovereignty

	<i>Food Sovereignty</i>	<i>Is FOR</i>	<i>Is AGAINST</i>
1	Focuses on food for people	The right to sufficient and appropriate food for all at the centre of food, agriculture, livestock and fisheries policies	The proposition that food is just another commodity or component of international agribusiness
2	Values food providers	The rights of peasants and small-scale family farmers, pastoralists, artisanal fisherfolk, forest dwellers, indigenous peoples, agricultural and fisheries workers, women and men	Policies, actions and programmes that undervalue them, threaten their livelihoods and eliminate them.
3	Localises food systems	Bringing food providers and consumers closer together, having providers and producers at the centre of decision making on food issues, protecting providers from dumping of food in local markets, protecting consumers from poor quality and unhealthy food	Governance structures, agreements and practices that depend on unsustainable and inequitable international trade, the power of unaccountable and remote corporations
4	Puts control locally	Control of local food providers over territory, land, pastures, water, seeds, livestock and fish populations	Privatisation of natural resources through laws, contracts and intellectual property rights regimes
5	Builds knowledge and skills	Building on skills and local knowledge of food providers that conserve, develop and manage localised food production.	Technologies that undermine, threaten or contaminate localised food production.
6	Works with nature	Diverse, low external input agroecological production maximising the contributions of ecosystems, improving resilience and adaptation. "Healing the planet so that the planet may heal us."	Energy intensive monocultures and other industrialised production methods, which damage ecosystems and contribute to global warming.

3.5 THE FAO RIGHT TO FOOD GUIDELINES

In November 2004 the “Voluntary Guidelines on the Right to Food” were adopted unanimously by the FAO Council. The Guidelines provide a check-list of public policies conducive to the right to food. The Guidelines put a particular emphasis on standard setting for right to food policies dealing with the general obligation to implement full realization as soon as possible. The 19 guidelines can be seen as consisting of 4 groups:

Group 1 (guidelines 1-7,11,12,17,18) deals with the general policy framework (Planning-monitoring-evaluation, institutions, stake holders). The other three groups detail key areas of relating to the basic necessities:

Group 2 (guidelines 13-16) concerns access to food for vulnerable groups (safety nets).

Group 3 (guideline 8) sets standards on access to resources (land, water, labour)

Group 4 (guidelines 9,10) deals with the health-related quality of food (nutrition, safety).

The FAO Right to Food Guidelines can be important tools in the hands of African peasant organisations and their support group for screening right to food policies of states. The Guidelines deal with a peasant-related right, and are the first such human rights tool outside any of the human rights systems – and for that matter at the FAO whose mandate is food and agriculture.

3.6 RAPDA - THE AFRICAN NETWORK ON THE RIGHT TO FOOD.

Civil society was heavily involved in the struggle to set up the Right to Food Guidelines – with one of the spin-offs being the African network on the right to food – called RAPDA (the acronym of its name in French: Réseau africain pour le droit à l'alimentation). It was founded in Cotonou, Benin, in 2008, by CSOs and peasants' organisations from 18 African countries of different sub-regions. One of its aims is to monitor the implementation of the FAO Right to Food Guidelines. RAPDA is involved in training and rights-based advocacy activities



together with peasant-related CSOs and peasants' networks in Africa.

3.7 ADVANCING AFRICAN AGRICULTURE

"Advancing African Agriculture (AAA)" is a policy document of the European Commission of 2007 meant to serve as terms of reference for European support to African agriculture including the allocation of European Development Fund (EDF) and other EC resources. AAA puts a strong focus on productivity growth – in this context, however, it underlines peasant agriculture and the production of staple foods. It takes national and sub-regional markets as more important than global markets.

Deregulation is questioned. AAA suggests that the role of the state has to be rethought, but not completely revised. Despite of this promising language, European CSOs raised doubts on a number of points and agreed with the Commission to undertake in close cooperation with African farmers' organisation a monitoring exercise of AAA's impact on African agriculture. Moreover it was agreed to include in the monitoring not only EU development assistance, but also important other ways how Europe impacts on African agriculture: EU agricultural policy, trade, agribusiness and investment.

The first evaluation took place in February 2009 in Brussels. One African farmer leader was present. African peasant organisations have started to establish a key position in this monitoring process making use of AAA's strong points to promote a policy reform in Europe (and in Africa) which would respect, protect and fulfil African peasants and pastoralists' basic necessities and defend African peasants' rights.



4. Conclusion

The time has come to recognize the crucial importance of African peasants in the transition to a new and more productive African agriculture which is at the same time sustainable and feeding the hungry masses of the continent.

The time has come to strengthen rural African communities and in particular the role of peasant women who care for food production – often without having land rights or titles.

The time has come to build strong peasant organisations empowered with human rights and supported by civil society and governments.

And the time has come for Europe and others to transform their own agricultural, trade and development policies in order to respect, protect and fulfil African peasants' rights.



RECOGNISING that:

- a) all continents have the potential to produce more than enough food for their population even at low and intermediate levels of input;
- b) in many countries, even where per capita foods production has increased, there exists large pockets of malnutrition and risk of famine;
- c) the situation of the people afflicted by hunger and malnutrition arises from social inequality, oppression, neocolonialism in all its forms and discrimination in particular against women;

BELIEVING that hunger can be eradicated only by attacking its causes and helping to remove those political, social and economic obstacles which prevent the hungry from obtaining their internationally recognized human right to food and especially their right to feed themselves;

AFFIRMING that:

- a) the causes of people's inability to feed themselves lie in the neglect and destruction of participatory rural social and food production structures and entail environmental degradation;
- b) hunger when it is a violation of human rights cannot be separated from cases of structural and individual oppression;
- c) all human rights and fundamental freedoms are indivisible and inter-dependant; equal attention and urgent consideration should be given to the implementation, promotion and protection of economic, social and cultural, civil and political rights;

THE AIM OF FIAN shall be to contribute throughout the world to the implementation of the provisions of the International Bill of Human Rights by working for the protection of the human right to food and, above all, the right to feed oneself of persons or groups threatened or suffering from hunger and malnutrition, especially peasants, agricultural workers, landless labourers, sqatters, sharecroppers, and others whose land rights or agricultural labour rights have been or are being violated.

From FIAN International's Statutes, Article 2.



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Food production for domestic consumption in Africa is mainly in the hands of peasant farmers, most of them women. Nevertheless, peasants are often not properly recognized within their own societies. They have to work without much support from their states or the international community.

The marginalisation of African peasant farmers is essentially a human rights issue. Their rights need to be asserted and implemented in agricultural policies. The purpose of this briefing is to provide an overview of some threats they are facing, of the human rights tools available to them and of some political developments in their favour.

This briefing is meant for African peasants' organisations and CSOs, but also for CSOs and government authorities in Europe: European trade and development policies towards Africa urgently need to be changed to defend African peasants' rights.



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