doi:10.1017/aju.2022.14

SYMPOSIUM ON INTERNATIONAL ECONOMIC LAW AND ITS OTHERS

# PEASANTS AS "COSMOPOLITAN INSURGENTS"

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The lives of peasants are strongly interconnected with their territories, economies, and local institutions.[1] At the same time, they have been historically defined by international processes and decisions that are taken elsewhere and affect their autonomy and identity. This is clearly the case when smallholders (that is, farmers who work small plots of land, mostly less than two hectares) are part of transnational food chains, but it is also true when their market is the local community: even when peasants do not grow global food commodities, they can be affected by the dynamics and continuous expansion of the transnational food system. Given the local impacts of international processes and regulatory frameworks, peasant organizations have increasingly organized translocally to participate in the international policy spaces, and try to subvert the legal structures that are shaping their lives and territories.[2] This essay discusses those attempts by peasants to organize beyond their local realities to increase their political power and promote their vision of international economic law as a central piece in their long term strategy for recognition, food sovereignty, and consolidation of territorial and agroecological food systems. The essay provides a diagnosis of farmers' silencing and exclusion by international economic law, presents the movement *La Vía Campesina* as a platform for translocal solidarity and multi-scalar engagement, and elaborates on peasants' "cosmopolitan insurgence" and their promotion of food sovereignty as an alternative project for international economic law.

## *Peasants: Essential and Disposable*

Peasants are essential to food systems, but also the main losers from economic globalization. There are some 500 million smallholder farms worldwide and more than two billion people depend on them for their livelihoods.[3] With the use of local knowledge, supported by social networks, and despite limited access to resources, peasants produce about 80 percent of the food consumed in Asia and sub-Saharan Africa,[4] and a large part of the food that

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[1] We use "peasants" and "small-scale farmers" interchangeably, in line with the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas. *See* GA Res. 73/165, Declaration on the Rights of Peasants and Other People Working in Rural Areas (Jan. 21, 2019).

[2] Matthew C. Canfield, Julia Dehm & Marisa Fassi, *Translocal Legalities: Local Encounters with Transnational Law*, 12 Transnat'l Legal Theory 335 (2021); Alina Sajed, *Insurrectional Politics in Colonial Southeast Asia: Colonial Modernity, Islamic "Counterplots," and Translocal (Anti-colonial) Connectivity*, 12 Globalizations 899 (2015).

[3] Civil Society and Indigenous Peoples' Mechanism, *Connecting Smallholders to Markets: An Analytical Guide* (Oct. 15, 2016).

[4] IFAD, *Smallholders, Food Security, and the Environment* (2013).

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is produced worldwide.[5] Thanks to their close links with the communities in which they operate and the use of regenerative agricultural practices, they are key to ensuring the right to adequate food and food security, significantly contribute to poverty reduction and local development,[6] maintain crop diversity, and regenerate the soil.[7] Although they are often labeled as "non-entrepreneurial"[8] and their practices "non-scientific," they contribute to feeding the world and their production methods prove to be more efficient than large farms in terms of cost per hectare and negative externalities.[9]

Despite their essentiality, peasants are among the "wretched of the Earth."[10] They comprise the largest segment of the 811 million people affected by hunger in 2020 and are at the center of a process of "dispossession"[11] that has been ongoing for centuries but significantly accelerated in the last forty years.[12] All over the world, peasants increasingly lose access to land in favor of large-scale investments, they are defeated by the importation of cheaper, subsidized agricultural products, and are progressively losing their culture, identity, and relationship with territories and communities.[13] From the point of view of the peasants, there is no doubt that their current situation has to do with the end of state support for small-scale farming, the liberalization of international trade in food commodities introduced with the 1994 Agreement on Agriculture, and the specific integration of food under the umbrella of the World Trade Organization.[14] The legal and political construction of food as global commodities has led to the intensification of global competition between producers, the surge in foreign direct investment in agricultural land, and put the basis for the "othering" of peasants.[15] Both in the Global South and in the North, peasants have been uprooted and marginalized, and relegated to a condition where their knowledge is deemed irrelevant for the future of the planet and their lives disposable.[16]

The invisibility of peasants reinforces their exclusion from decision-making processes, especially from the international arenas—like the international negotiations on trade and investments—that have become the new "public sphere."[17] For decades, peasants have been ignored and kept separated from heads of state and trade negotiators. This happened physically, with barricades and lack of consultation, and at the level of knowledge, with the intensification of trade and investment discourses based on paradigms that make peasant life irrelevant. Decades of

[5] *See* FAO, *The State of Food Insecurity in the World* (2014); ETC Group, *Who Will Feed Us? Questions About the Food and Climate Crisis – 2009* (2009); Vincent Ricciardi, Navin Ramankutty, Zia Mehrabi, Larissa Jarvis & Brenton Chookolingo, *How Much of the World's Food Do Smallholders Produce?*, 17 Glob. Food Security 64 (2018).

[6] Civil Society and Indigenous Peoples' Mechanism, *Connecting Smallholders to Markets*.

[7] International Food Policy Research Institute, *Collective Action for the Conservation of On-Farm Genetic Diversity in a Center of Crop Diversity* (Capri Working Paper, 2005).

[8] Jan Douwe van der Ploeg, *The Peasantries of the Twenty-First Century: The Commoditisation Debate Revisited*, 37 J. Peasant Stud. 1 (2010).

[9] Raj Patel, The Value of Nothing: How to Reshape Market Society and Redefine Democracy (2010).

[10] Frantz Fanon, The Wretched of the Earth (1965).

[11] Giovanni Arrighi, Nicole Aschoff & Ben Scully, *Accumulation by Dispossession and Its Limits: The Southern Africa Paradigm Revisited*, 45 Stud. Comp. Int'l Dev. 410 (2010).

[12] FAO, *The State of Food Insecurity 2020. Transforming Food Systems for Affordable Healthy Diets* (2021).

[13] Their struggles have been recently recognized by the United Nations General Assembly. *See* UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, adopted by the Human Rights Council (Sept. 28, 2018).

[14] Michael Fakhri, The Right to Food in the Context of International Trade Law and Policy, Interim Report of the Special Rapporteur on the Right to Food, UN Doc. A/75/219 (2020).

[15] La Vía Campesina, *"Prosperity for a Few, Poverty for the Lot," WTO and Free Trade Agreements Have Failed the People!* (Nov. 29, 2021).

[16] Boaventura de Sousa Santos, *Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges*, 30 Rev. (Fernand Braudel Ctr.) 45 (2007).

[17] Josh Brem-Wilson, *Towards Food Sovereignty: Interrogating Peasant Voice in the United Nations Committee on World Food Security*, 42 J. Peasant Stud. 73 (2015).

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international agreements and national reforms promoting the liberalization of trade in agricultural products have thickened this separation and produced a global scenario that does not benefit peasants and the poorest countries, but rather strengthens the historical advantage of powerful countries and large corporations.[18]

*La Vía Campesina and the Need for Translocal Peasant Solidarity*

For centuries, peasantry and its territories have been reshaped by local and international forces, at least since colonization and enclosure, which led to the privatization of the commons and further "depeasantization"[19] and exclusion of the non-owners.[20] More recently, the negotiations of the Uruguay Round of trade reforms at the beginning of the 1990s represent a moment of intensification. By then, peasants had already experienced a combination of national and international policies that promoted structural adjustment programs, privatization of the agricultural sector, failed green revolutions,[21] and the normalization of the idea that foreign direct investment in food and the liberalization of trade would enhance productivity, food security, and economic growth. The 1994 Agreement on Agriculture and the establishment of the World Trade Organization were key elements of the negotiations, and helped catalyze integration of the global food market.

From their standpoint, peasants knew that the conclusion of the Uruguay Round would exacerbate the concentration of corporate power along food chains; put more pressure on them over land and natural resources ownership and use; consolidate global competition among food producers; and consolidate the historically uneven terms of trade, where rich countries had increased public subsidies for agricultural production and export while imposing structural adjustment programs to prevent Global South countries from doing the same.[22] The local repercussions of international negotiations demonstrated that resistance should not be only local, and that solidarity should be built transnationally to strengthen the positions and voices of peasants across levels of social organization—locally, nationally, and internationally. The need arose to advance a shared vision and a global platform to combine the multiple local struggles into a joint international position against the way the creation of the "global" competitive market was redefining peasants' lives and their relationship to the land.[23]

Against the risk of fragmentation, competition, and capitulation, peasant movements have responded with the formation of *La Vía Campesina* as a platform for translocal solidarity that combines support for local production and the formulation of alternative knowledges, political visions, and legal arrangements to redefine the local and international arena.[24] Farmer leaders from Central America, the Caribbean, Europe, the United States, and Canada met in Managua, Nicaragua, in April 1992, and released a declaration identifying neoliberal policies, conditionality for external debt negotiations, and trade liberalization as forces "bringing farmers to the brink of irreparable extinction."[25] They demanded "real participation in the formulation of policies which affect fundamental conditions of our sector in order to overcome the injustices that they bear."[26] A year later, forty-six farm leaders

[18] Michael Fakhri, A History of Food Security and Agriculture in International Trade Law, 1945–2017 (2019); Christian Häberli, *Agricultural Trade: How Bad Is the WTO for Development?* (2016).

[19] Farshad A. Araghi, *Global Depeasantization, 1945–1990*, 36 Sociological Q. 337 (1995).

[20] Douwe van der Ploeg, *supra* note 8.

[21] Raj Patel, *The Long Green Revolution*, 40 J. Peasant Stud. 1 (2013).

[22] Ha-Joon Chang, Kicking Away the Ladder: Development Strategy in Historical Perspective (2002).

[23] Gérard Choplin, *The Founding of La Vía Campesina in Relation to Agricultural Globalisation*, *in* La Vía Campesina's Open Book: Celebrating 20 Years of Struggle and Hope (La Vía Campesina ed., 2013).

[24] Duncan Kennedy, Sexy Dressing etc.: Essays on the Power and Politics of Cultural Identity 83–119 (1991).

[25] Managua Declaration (Apr. 1992).

[26] *Id.*

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from various countries met in Mons, Belgium, to discuss the creation of an international movement that could speak in the name of international peasants, support their local struggles, and represent them in opposing the intensification of the neoliberal international economic agenda. They founded *La Vía Campesina*.[27]

Three decades later, *La Vía Campesina* comprises 182 local and national organizations in eighty-one countries, and provides more than 200 million small-scale food producers with a platform for organization, discussion, education, and cross-boundary solidarity in the struggle for small-scale agroecological farming and territorial markets.[28] Being an umbrella movement with a rather heterogenous membership means that *La Vía Campesina* is also a space for confrontation and debate.[29]

A key source of internal contention has been the type of relationship the organization should have with law and international organizations: would *La Vía Campesina* utilize the master's tools to dismantle the master's house or would it resist this temptation and adopt an anti-juridic position based on the view that law is nothing but a reproduction of existing relations of domination? As we discuss below, the movement has been capable of gathering enough visibility and political traction to tactically engage with international human rights law in a way that contributes to its long-term strategy of subverting international economic law.[30] Key to this approach to law are the demand for recognition of peasantry as a subject of international law and of food sovereignty as the right to non-commodified food systems.

### *Food Sovereignty, International Economic Law, and "Insurgent Cosmopolitanism"*

In December 2018, the United Nations General Assembly adopted the Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).[31] For the first time in the history of international law, peasants, their way of living, and the oppression they face received formal recognition in terms of collective rights and states' obligations to protect, respect, and fulfill those rights.[32]

At the core of the Declaration, there is the right to food sovereignty as the bundle of rights essential to guarantee that peasants can build and enjoy territorial and regenerative food systems built around their aspirations and needs, and that do not depend on the demands of international markets, profit maximization, or the depletion of the ecological balance.[33] Food sovereignty is the peasants' vision of food systems and requires "prioriti[zing] local and national economies and markets, and empower[ing] peasant and family farmer-driven agriculture, artisanal fishing, pastoralist-led grazing, and food production, distribution and consumption based on environmental, social and economic sustainability."[34] As peasants' based vision of food systems, the UNDROP is not about tweaking the status quo or recognizing individual rights within the current global economy: its goal is to address the root causes of socio-environmental misery.[35]

Food sovereignty as a challenge to the structures that uphold the commodified food system is thus indissolubly tied to the reimagination of international economic law as one of the spaces where commodification, global competition,

[27] Annette Aurelie Desmarais, La Vía Campesina: Globalization and the Power of Peasants (2007).

[28] La Vía Campesina.

[29] Saturnino Borras, *La Vía Campesina and Its Global Campaign for Agrarian Reform*, 8 J. Agrar. Change 91 (2009).

[30] Robert Knox, *Strategy and Tactics*, 21 Finnish Y.B. Int'l L. 193 (2010).

[31] Declaration on the Rights of Peasants and Other People Working in Rural Areas, *supra* note 1.

[32] Priscilla Claeys & Marc Edelman, *The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas: Grassroots Voices*, 47 J. Peasant Stud. 1 (2020).

[33] Christophe Golay, *The Rights to Food and Food Sovereignty in the UNDROP*, *in* The United Nations' Declaration on Peasants' Rights (Mariagrazia Alabrese, Adriana Bessa, Margherita Brunori & Pier Filippo Giuggioli eds., 2022).

[34] Declaration of Nyéléni (Feb. 27, 2007).

[35] Susan Marks, *Human Rights and Root Causes*, 74 Modern L. Rev. 57 (2011).

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and depeasantization are reproduced. This is why *La Vía Campesina* and other transnational agrarian movements have been developing their own vision for international economic law for more than thirty years. They approach international economic law to engage in a "process of destructive creation,"[36] that aims at disassembling the legal straitjacket that underpins the capitalist relations that oppress them and make food sovereignty and peasants' rights unachievable. Although central to their daily struggles, international economic law is not considered by this movement as immutable, nor a fixed crystallization of power dynamics. Rather, it is confronted as a "legal field"[37] that is defined by power relations: what currently reproduces domination and colonial legacies can be subverted with the use of multiple tactics, the consolidation of alternative epistemologies, and the establishment of trans-local alliances. The goal is not to abolish international economic law, but to engage with it to shape new legal arrangements predicated on values like cooperation and socio-ecological justice that are the opposite of those currently upheld.

Although in constant mutation, the peasants' vision for international economic law is based on the recognition that food is much more than a commodity and that peasants—and not states—are key to the creation of food systems where no one goes hungry, that regenerate the planet, and that contribute to local development, human dignity, and economic stability. For decades, *La Vía Campesina* has been calling for winding down the Agreement on Agriculture, the folding of the World Trade Organization, and the termination of free trade agreements. A new multilateral trade system for food has to be put in place that respects political, economic, and social alliances in defense of independence, self-determination, and the identity of peoples comprising it. A system that repairs decades of unequal trade relationships, allows countries in the South to have more regulatory space in terms of subsidies to their small-scale food producers, stockpiling for food security, and controlling borders from the dumping of highly subsidized food from the Global North. Along with trade, peasants also call for an actual recognition of the exclusion of the application of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and the patenting of seeds and any other form of life. Finally, they reject both the promotion of large-scale foreign direct investments through bilateral and multilateral treaties and the subordination of states' autonomy to the decision of arbitral panels and international treaties that detach controversies from territories and their social dynamics.

## *Conclusion*

The voices and knowledges of peasants can help international economic lawyers see that lives and territories are constantly defined by the international, and that the construction of alternative local realities is inherently connected to the reimagination of the international space. They also make it clear that what the people and the planet truly need are not improvements and spaces of "exceptions," such as Trade and Sustainable Development Chapters or the integration of human rights in international arbitral awards, but a new system of international economic law. For decades, peasants have called for the recognition of the historical and contemporary responsibilities of international economic law in generating multiple socio-environmental injustices, and its role in silencing the plurality of epistemologies beyond those of Western modernity. As "insurgent cosmopolitans," peasants have brought together their territorial instances to organize their resistance "on the same scale and through the same type of coalitions used by the oppressors to victimize them, that is, the global scale and the local/global coalitions."[38] To be more visible, some have taken their lives.[39] Still, they wonder when international economic lawyers will see them and hear them.

[36] Massimo De Angelis, *The Production of Commons and the "Explosion" of the Middle Class*, 42 ANTIPODE 954 (2010).

[37] Pierre Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 HASTINGS L.J. 814 (1987).

[38] Boaventura de Sousa Santos, *Globalizations*, 23 THEORY, CULTURE & SOC'Y 393, 398 (2006).

[39] On September 10, 2003, Lee Kyung Hae, a fifty-six-year-old Korean cattle farmer took his life outside of the area of the 2003 Cancun WTO Ministerial Negotiations. He was carrying a sign that read: "WTO Kills Farmers."

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