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## Protecting, Respecting, or Violating Peasants' Rights? UNDROP, the State and 'Sembrando Vida' – Mexico's Flagship Reforestation Project

*In this article, we critically examine Sembrando Vida – a Mexican social and economic development programme that pays individual farmers a subsidy to plant trees on their land – through the lens of a new instrument in the landscape of International Human Rights Law (IHRL): the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP 2018). Sembrando Vida purports to simultaneously advance efforts to combat climate change and to enhance rural social development, and the programme leans heavily on its promise to learn from 'indigenous' and 'peasant' lifestyles in order to enhance its legitimacy. We draw on a body of evidence gathered through a series of interviews with people impacted by the Sembrando Vida project to contest its presentation as a human-rights respecting development programme, and to demonstrate that the programme is undermining traditional agroecological practices that offer a more sustainable and equitable alternative to combatting climate change. By means of an analysis of Sembrando Vida through the lens of UNDROP, we demonstrate that a project that purports to learn from rural and peasant communities in their stewardship of nature is a form of Mandate System that purports to nurse rural communities, as opposed to fledgling nations, into a particular vision of economic health: one that is, predictably, remunerative for private investors and for state actors who are trying to develop the poorer regions of Mexico through a number of disparate large-scale infrastructure projects that traverse constitutionally protected common lands.*

In 2018, the Mexican Government launched 'Sembrando Vida'—a new agroecological reforestation programme that offers substantial subsidies to peasant farmers in rural Mexico in return for the planting of trees on their land. In addition to a monthly payment of five thousand pesos, participants in the programme are supplied with the plants, inputs, and tools needed to carry out agroforestry, and they are attended by specialist technicians whose task it is to 'share knowledge and experience' with local communities, and to learn from 'the wisdom of the people who have lived together with nature in their territory'.<sup>1</sup> Sembrando Vida is the largest rural development programme of its kind, distributing more than 1.450 million dollars to more than 425, 000 beneficiaries per year, and covering more than a million hectares of land.<sup>2</sup> The goals of the programme are explicitly social as well as environmental. Its objectives are to promote 'productive inclusion', to foster stewardship of nature and the environment, and to

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<sup>1</sup> 'Sembrando Vida', website of the Mexican President, online: <<https://presidente.gob.mx/sembrando-vida/>>

<sup>2</sup> Elías Camhaji, 'Mexico echa mano de los programas sociales para ampliar su influencia en América Latina' *El País* (28 December 2021) online: <<https://elpais.com/mexico/2021-12-28/mexico-echa-mano-de-los-programas-sociales-para-ampliar-su-influencia-en-america-latina.html>>. Sembrando Vida is funded by one of the largest budgets historically granted for a rural development programme: 15 billion pesos in 2019; 27.5 billion pesos in 2020, y 27 billion pesos in 2021. World Resources Institute, 'Boletín de prensa: Analizan impactos forestales y potencial de mitigación de Sembrando Vida' (17 March 2021) online: <<https://wrimexico.org/news/bolet%C3%ADn-de-prensa-analizan-impactos-forestales-y-potencial-de-mitigaci%C3%B3n-de-sembrando-vida>>

regenerate the social fabric of the communities, including by ‘fermenting a culture’ of financial planning and saving.<sup>3</sup> Sembrando Vida positions Mexico as a global leader in reforestation initiatives, advancing the country’s progress in terms of meeting its international commitments to address climate change and to promote sustainable development. The programme also seeks to stem the flow of Mexican migrants emigrating to the United States (US). As President Andrés Manuel López-Obrador (AMLO) has underlined, the programme ‘gets to the root of the migration problem. It’s not just about stopping it, and it’s certainly not about being coercive, about violating human rights. Rather, it gets to the root of the problem, and we can do this together with the United States government.’<sup>4</sup> Sembrando Vida is already operational in twenty states in Mexico, and the programme is currently being exported to other states in South and Central America, including Honduras and El Salvador.

With its public character, its explicitly environmental and social focus, and its use of subsidies to encourage what is presented as a form of scaling up of the traditional agroecological practices of peasant farmers and indigenous communities, Sembrando Vida appears to represent a departure from the more rapacious patterns of neo-colonial development policy. The programme ostensibly entails both a return to the public premises of the developmental state that preceded the neoliberal model of governance that required states to liberalise, deregulate, and incentivise private investment as a condition of participation in the global economy, and a recognition of the falsity of the ‘modernisation logic’ that led many former colonies to try to urbanise and industrialise rapidly in order to replicate a (false) image of the development trajectories of countries in the ‘core’ of the global economy.<sup>5</sup> The deliberate and substantial investment in the rural sector, the focus on benefits to rural communities, and the explicit adoption of an agroecological approach coheres with the broader international agenda for promoting inclusive sustainable economic development, and respecting the human rights of indigenous peoples and peasants.

Mexico faces complex challenges, and like other states in the region these challenges are exacerbated by the intensifying pressures of climate change and migration. From its inception, Sembrando Vida has aimed to respond to both of these by planting trees and people. A recent study summarised the vision of the Sembrando Vida policy: ‘with this increased agricultural and forestry production, the program expects to contribute to food sovereignty, stimulate local economies, increase monetary incomes, and help reconstruction of the social fabric’.<sup>[OBI]</sup> Based upon interviews with operational personnel within the programme, this same study reported that overall people perceived the programme to have adequate objectives *and* execution, especially as it created job opportunities and cash payments, but that there were also significant problems with implementation, for example a lack of training in caring for the types of trees they were encouraged to plant, as well as the form of governance of the programme.<sup>[OBI]</sup> According to the Mexican government’s press release, Sembrando Vida has been one of the biggest creations of employment in history,<sup>[OBI]</sup> but there are some incongruences between

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<sup>3</sup> ‘Sembrando Vida Programme’, Overview by the Department for Welfare of the Mexican Government, (6 November 2020), online: <<https://www.gob.mx/bienestar/acciones-y-programas/programa-sembrando-vida>>

<sup>4</sup> ‘The Sowing Life program addresses the root causes of migration, affirms President López Obrador to the US delegation’ Communication of the Mexican Government (18 October 2021), online: <<https://www.gob.mx/presidencia/prensa/the-sowing-life-program-addresses-the-root-causes-of-migration-affirms-president-lopez-obrador-to-the-us-delegation?idiom=es>>

<sup>5</sup> Andre Gunder Frank, *Dependent Accumulation and Underdevelopment* (London: Palgrave MacMillan, 1978); Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton, New Jersey: Princeton University Press, 2011), and Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth, and the Politics of Universality* (Cambridge: Cambridge University Press, 2011).

official narratives of the programme's success and the realities of its implementation. For example, regarding migration, Anna Mary Garrapa notes that the programme has been unsuccessful in integrating migrants as workers.<sup>5</sup> Another study emphasised that while there have been notable problems with implementation, including examples of deforestation, the design of the programme has been sound and noted that the programme has had some successes, for example in the promotion of women's participation.<sup>6</sup> The authors of this report stressed that problems in implementation were not the fault of the design, but of lack of resources.

In this article we draw on a body of evidence gathered through interviews conducted with participants and organisations in Mexico that challenge the environmental and social credentials of Sembrando Vida. Furthermore, we re-examine Mexico's flagship reforestation programme through the lens of a relatively new instrument in the legal landscape of International Human Rights Law (IHRL): the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).<sup>7</sup> At the centre of UNDROP is a new human right to 'food sovereignty'. Food sovereignty connotes 'peoples' democratic control of the food system', and it encompasses access to land and productive resources, access to seeds, the promotion of local knowledge and local markets, and the centrality of food to cultural identity.<sup>8</sup> The food sovereignty movement developed in Central America in the 1980s as a response to the advancement of the agenda of the World Trade Organisation (WTO)—an agenda that pursued trade liberalisation and export-led agricultural production, and threatened the livelihoods of small farmers by flooding local markets in Central and South America with cheap subsidised food imports. As Claeys underlines, drawing on the German social theorist Jürgen Habermas, La Via Campesina (LVC), the transnational agrarian movement that spearheads the food sovereignty agenda, 'opposes the "colonization of the lifeworld" by the state and the economy that "robs actors of the meaning of their own actions"'.<sup>9</sup> Much of the activism of LVC is focused on enhancing resilience and peasant autonomy, 'ensuring that peasants regain "the possibility of controlling their own destinies"',<sup>10</sup> and resisting incursions by governments and corporations seeking to grab lands, appropriate resources, and relocate communities in order to make way for large scale development projects.

Central to the food sovereignty movement's agenda is the promotion of a shared model of learning, the campesino-to-campesino method, which ensures the survival and development of traditional systems of agroecological food production.<sup>11</sup> Although the movement is wary of

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<sup>6</sup> See Juan Gerardo Cortez Egremy et al, 'La multifuncionalidad de la agricultura como herramienta de análisis de políticas agrarias: el caso del programa Sembrando Vida en Chahuities, Oaxaca', *Acta Universitaria* 32 (2022), 1-18.

<sup>7</sup> UN General Assembly, 73rd Session, 55th Plenary Meeting, (17 December 2018), New York. A /73/PV.55, online: <<https://digitallibrary.un.org/record/3795602>>

<sup>8</sup> Anderson Fergal, 'Food Sovereignty NOW! A Guide to Food Sovereignty' European Coordination Via Campesina (2018), online: <<https://viacampesina.org/en/wp-content/uploads/sites/2/2018/02/Food-Sovereignty-A-guide-Low-Res-Vresion.pdf>>

<sup>9</sup> Priscilla Claeys, 'The Creation of New Rights by the Food Sovereignty Movement: The Challenge of Institutionalizing Subversion' (2012) *Sociology* 46(5) 844–860, 846 citing Jürgen Habermas, *The Theory of Communicative Action*, Vol. 2: *Lifeworld and System: A Critique of Functionalist Reason* (Cambridge: Polity, 1987). 302-307.

<sup>10</sup> Ibid Claeys.

<sup>11</sup> Peter. M. Rosset & Maria Elena Martínez-Torres, 'Rural social movements and agroecology: context, theory, and process' (2012) *Ecology and society* 1;17(3); Valentín Val, 'Agroecology and La Via Campesina I. The symbolic and material construction of agroecology through the dispositive of "peasant-to-peasant" processes' (2019) *Agroecology and Sustainable Food Systems* 14;43(7-8): 872-94.

the risk that by pursuing recognition within international governance structures its agenda could be co-opted, UNDROP is an outcome of the strategic engagement of LVC and other activist groups with the institutional machinery of the UN human rights system.<sup>12</sup> Food sovereignty proponents have sought to utilise the discourse, instruments, and mechanisms of human rights as part of a fight for transformative social change, re-grounding dominant legalistic, individualistic and Eurocentric human rights in their own experience, and ‘re-shaping the institutions and understandings of international human rights in order to support their struggles’.<sup>13</sup> Cotula identifies ‘reactive’ and ‘constitutive’ strategies of human rights advocacy, arguing that in ‘reactive’ strategies social movements employ existing human rights concepts and instruments to respond to more immediate social injustices while, ‘constitutive’ advocacy strategies seek to reconfigure the conceptual apparatus of human rights in order to realise longer-term human rights goals.<sup>14</sup> The rights protected in UNDROP, including the right of peasants to access resources and participate in their management (Art 5), the right to choose freely the way they earn their living (Art 13), the right to land (Article 17), and the right to maintain, control, protect and develop their own seeds and traditional knowledge (Article 19.2) exhibit the food sovereignty movement’s adoption of the second strategy.

The Declaration fundamentally challenges the way that the international human rights system has ‘traditionally conceived of human rights’,<sup>15</sup> namely, as individual legal entitlements that ‘are susceptible of realization within the context of a wide variety of economic and political systems’.<sup>16</sup> Importantly for our purposes in this article, UNDROP evinces a different understanding of the role that the state should play in the context of economic development to the framing of this relationship in many of the core legal and institutional mechanisms of IHRL. While in many countries in the global North, struggles to ‘respect, protect, and realise’ economic and social rights are focused on restoring tattered welfare states in the aftermath of the privations of a neoliberal agenda of privatisation and austerity,<sup>17</sup> for the food sovereignty movement, and for many indigenous communities living in the global South, further empowering the state to provide welfare is not necessarily a desirable outcome, not least because states are understood to be captured by corporations and financial institutions, and subordinated to a logic of capital accumulation that is inimical to the wellbeing of peoples who live by a different understanding of what it means for human beings, and other life forms, to flourish. Instead, protecting the environment from harm via inappropriate development, and fair and democratic access to land and food, is emphasised in UNDROP.<sup>18</sup> As such, its strengths

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<sup>12</sup> Marc Edelman and Carwil James, ‘Peasants’ rights and the UN system: quixotic struggle? Or emancipatory idea whose time has come?’ (2011) *J Peasant Stud* 1;38(1): 81-108.

<sup>13</sup> Katie Sandwell et al, ‘A View from the Countryside: Contesting and constructing human rights in an age of converging crises’ Transnational Institute Report (2019), online: <[https://www.tni.org/files/publication-downloads/web\\_countryside.pdf](https://www.tni.org/files/publication-downloads/web_countryside.pdf)> 5 citing: Sofia Monsalve Suarez, ‘Grassroots Voices: The human rights framework in contemporary agrarian struggles’ (2013) *J Peasant Stud* 41:1, 239-290.

<sup>14</sup> Lorenzo Cotula, ‘Between hope and critique: Human Rights, Social Justice and Re-Imagining International Law from the Bottom Up’ (2020) *Ga. J. Int’l & Comp. L.* 48(2).

<sup>15</sup> Sandwell et al, *supra* n 12, 13.

<sup>16</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties’ Obligations* (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/238.

<sup>17</sup> Aoife Nolan, ‘Privatization and Economic and Social Rights’ (2018) 40(4) *HRQ* 815; UN Human Rights Office of the High Commissioner, *Report on austerity measures and economic and social rights* (2013), online: <[https://www.ohchr.org/sites/default/files/E-2013-82\\_en.pdf](https://www.ohchr.org/sites/default/files/E-2013-82_en.pdf)>

<sup>18</sup> Florence Kroff and Angélica Castañeda Flores, ‘Right to Adequate Food and Nutrition, and to Food Sovereignty’ (2020) UNDROP Series, FIAN International, online: <[https://www.fian.org/files/files/Andrea\\_20201211\\_Papers\\_2\\_Food\\_V2.pdf](https://www.fian.org/files/files/Andrea_20201211_Papers_2_Food_V2.pdf)>



in case law have often related directly to environmental damage caused by ‘modernisation’ initiatives such as industrial farming and urbanisation.<sup>19</sup>

Critically examining Sembrando Vida through the lens of UNDROP offers an alternative outlook on Mexico’s flagship agroforestry programme. On the surface, Sembrando Vida appears to be a model programme in terms of its apparent respect for human rights, and the rights of peasants and agricultural workers in particular. Sembrando Vida apparently does not seek to ‘grab’ the lands of peasant farmers and indigenous communities in Mexico in order to put the land into the hands of developers, or miners, or logging companies or agribusiness firms, as many state-led development initiatives have done in the past, and as many continue to do. As the data gathered by the Project Team uncovers, however, the programme deploys a set of incentives and puts into motion a set of relations that create divisions within communities based on who can participate in the programme and who cannot, inculcating individualistic economic rationalities that, over the longer-term, erode community values and weaken the longstanding resistance of communities in Chiapas, Oaxaca, Tabasco, the Yucatán peninsula and other regions of Mexico to large-scale infrastructure projects.<sup>20</sup> A project that purports to learn from rural and peasant communities in their stewardship of nature actually places them under the tutelage of state technicians and is a form of Mandate System that purports to nurse rural communities, as opposed to fledgling nations, into a particular vision of economic health<sup>21</sup>: one that is, predictably, remunerative for private investors and for state actors who are trying to develop the poorer regions of Mexico through a number of disparate large-scale infrastructure projects that traverse constitutionally protected common lands. As Rocheleau has found in her analysis of dynamics of land appropriation and ‘green grabbing’ in Chiapas, the forms of land-grabbing that are deployed by the Mexican state are subtle but sophisticated, and must be understood to be ‘rooted in the very specific history of Mexican land law and agrarian culture, where the land is for the people who live and work on it, and care for it’.<sup>22</sup> ‘Networked land grabbing processes driven by conservation and tourism interests, or the pretext of such, are less visible, more distributed and more complex than the large land deal form of grabbing, but no less significant, or violent’, she underlines.<sup>23</sup>

Parts One and Two of this article are dedicated to relating competing perspectives on the nature and operations of Sembrando Vida. First, the presentation of the programme by the Mexican government is discussed. Then, in Part Two, we present an alternative outlook on this programme from the data gathered through our interviews with communities and organisations working and living in the regions of Mexico in which Sembrando Vida is being implemented.

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<sup>19</sup> Amanda Lyons. ‘Rurality as an Intersecting Axis of Inequality in the Work of the U.N. Treaty Bodies’ (2022) 79 Wash. & Lee L. Rev. 1125.

<sup>20</sup> See the Webinar ‘Understanding Sembrando Vida’ for further discussion and analysis of these findings, Peter Rosset et al, ‘Sembrando Vida Webinar’, online: <<https://gcils.org/?events=understanding-sembrando-vida-the-governmental-programme-in-mexico-that-inspired-the-cop-agreement-on-reforestation>>

<sup>21</sup> The League of Nations Mandate System was established as a mechanism for the distribution and governance of former German and Ottoman Empire territories following World War One. The declared purpose of the system was to oversee the transition of these territories from imperial rule to self-governance, with the ultimate aim of preparing them for independence as sovereign nations. However, as critical scholars of International Law, and notably Antony Anghie, have argued, the Mandate System in fact served to advance neo-colonial development practices that maintained the influence of the former colonial powers over the economies and peoples of the global South. See Antony Anghie, *Imperialism, Sovereignty, and the Marking of International Law* (Cambridge: Cambridge University Press, 2012).

<sup>22</sup> Dianne E. Rocheleau, ‘Networked, rooted and territorial: green grabbing and resistance in Chiapas’ [2015] J Peasant Stud, 42:3-4, 695-723, 700

<sup>23</sup> Ibid, 698.

In Part Three of the article, we move to analyse Sembrando Vida through the lens of International Human Rights Law (IHRL). Our aim in this section is to highlight differences between dominant legal and institutional mechanisms of IHRL and so-called ‘political’ approach to human rights, such as the approach advanced through UNDROP. Our focus is on how these different perspectives on human rights represent the relationship between human rights and the state. We end by advancing a thesis on how the nature of state obligations with regard to ‘respecting, protecting, and fulfilling’ the human rights of peasants, and, more specifically, a right to food sovereignty, should be understood.

## I. Understanding Sembrando Vida: The Account of the Mexican Government

Sembrando Vida is defined by the Mexican government as a social development programme that seeks to contribute to the welfare of its participants—‘sembradoras y sembradores’ (‘sowers’)—by encouraging self-sufficiency in food, and by implementing measures that favour both the reconstruction of the social fabric and the restoration of the environment through the creation of productive agroforestry systems within their territories.<sup>24</sup> In return for a payment of five thousand Mexican pesos, participants are required to plant fruit and timber trees on their land, and to use their plots to cultivate a milpa—a traditional polyculture agricultural system used widely throughout Meso-America in which a number of different crops, most typically maize, beans, squash, and chillies are grown in and around forested areas.<sup>25</sup> In order to join the programme, participants must be at least eighteen years of age and have ‘basic knowledge in the agrarian field’; live in one of the twenty Mexican states in which the Sembrando Vida programme is active; reside in agrarian communities that have a high level of ‘social marginalisation’; and be ‘the proprietor of at least 2.5 hectares of agricultural land that can be worked and employed in an agroforestry project’.<sup>26</sup> In addition to meeting these requirements, participants must agree to the programme’s terms and conditions, which include stipulations regarding the condition of the land—notably that it must be ‘unused’, not form part of a protected area of forestry, and not be deforested or subject to any form of ‘burning’.<sup>27</sup> They must also agree to save a minimum of ten percent of the financial support of five thousand

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<sup>24</sup> ‘Sembrando Vida Programme’, Recent publications of the Department of Welfare of the Mexican Government, (6 November 2020), online: <<https://www.gob.mx/bienestar/acciones-y-programas/programa-sembrando-vida#:~:text=Sembrando%20Vida%20es%20un%20programa,trav%C3%A9s%20de%20la%20implementaci%C3%B3n%20de>>

<sup>25</sup> To be eligible for the program, farmers must own or hold 2.5 hectares of land available for the establishment of agroforestry projects that combine the production of traditional crops with fruit and timber trees. In addition to the subsidy, the program includes in-kind support such as plants, inputs and tools, as well as technical assistance for the design and implementation of biofactories and community nurseries. Beneficiaries are organized in farmer learning communities with an average of 25 members. According to the latest data, the program integrates a total of 449,800 people, accompanied by 445 facilitators, who in turn coordinate 2,278 social and productive technicians. To date, Sembrando Vida has impacted an area of 1,124,500 hectares through the planting of approximately one million plants.

<sup>26</sup> ‘Registration Page for Sembrando Vida Programme 2022-23’ online: <<https://convocatoriasmexico.com/bienestar/sembrando-vida/>>

<sup>27</sup> ‘3.7.2 Obligaciones de la/del sujeto de derecho’, Agreement on the Rules of Operation for the Sembrando Vida Programme. Government of Mexico (2021), online: <[https://www.dof.gob.mx/nota\\_detalle\\_popup.php?codigo=5590695&fbclid=IwAR02YKBHLzBWWVm1jOwmWOIDBv1vKnjvKs9DMRKidd8LuJHzwoSfp7FTUfg](https://www.dof.gob.mx/nota_detalle_popup.php?codigo=5590695&fbclid=IwAR02YKBHLzBWWVm1jOwmWOIDBv1vKnjvKs9DMRKidd8LuJHzwoSfp7FTUfg)> 196

pesos.<sup>28</sup> A further set of regulations require participants to fulfil at least eighty percent of the terms of the work plan that they have agreed with the Production and Social Technicians, which includes objectives, activities, and dates of completion; and to participate in two monthly meetings with the CAC<sup>29</sup> – Comunidad de Aprendizaje Campesino (Community for Peasant Learning).<sup>30</sup> If participants do not fulfil their obligations under the rules of operation of the programme, they can be subject to sanctions, including a verbal warning, or the suspension or cancelation of benefits.<sup>31</sup>

The two principal problems to which Sembrando Vida is addressed are rural poverty and environmental degradation.<sup>32</sup> In spite of being the second largest economy in Latin America, Mexico is a country in which statistics report that already high poverty rates are rising rapidly. According to one set of figures, there were 55.7 million people in poverty in 2020, 43.9 percent of the total population, of which 10.8 million (8.5 percent) were living in extreme poverty.<sup>33</sup> Rural poverty is particularly acute. It was reported that people in rural areas represented approximately two-thirds of the ‘extremely poor’ in Mexico in 2017.<sup>34</sup> Mexican Indigenous communities are the most vulnerable to poverty, with 8.4 million (69.5% of the indigenous population) living in poverty in 2018, and 3.4 million people (27.9% of the indigenous population) in extreme poverty.<sup>35</sup> These social and economic conditions are argued to be driving the emigration phenomenon in which thousands of Mexicans leave their country to look for work in the US.<sup>36</sup> Many Mexican migrants send money home to family, generating flows of income into the Mexican economy, nevertheless, the impacts of a ‘brain drain’, and an outflow of social ‘capital’ to the US and other countries, are significant.

With regard to the matter of environmental degradation, Mexico is among the countries with the highest levels of deforestation globally.<sup>37</sup> According to data from the Geography Institute of the National Autonomous University of Mexico UNAM), 500,000 hectares of forests and jungles are lost every year, with a significant causing being illegal logging that

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<sup>28</sup> Two hundred and fifty pesos are to be deposited into a savings account at a financial institution, and two hundred and fifty pesos will automatically be destined for a welfare fund. Ibid.

<sup>29</sup> The Communities of Peasant Learning (Comunidades de Aprendizaje Campesino (CAC's) are a collective subject of the programme that consist of 25 legal subjects for the generation of knowledge by means of the exchange of experiences and training. Ibid,

‘3.6.3 Acompañamiento social y técnico para la implementación del Programa’

<sup>30</sup> Ibid, 196.

<sup>31</sup> ‘3.7.3 Sanciones’, Ibid, 176.

<sup>32</sup> Ibid.

<sup>33</sup> BBVA Research, ‘Mexico | 3.8 million more poor and 2.1 million more in extreme poverty between 2018-2020’ (10 August 2021), online: <<https://www.bbvarsearch.com/en/publicaciones/mexico-38-million-more-poor-and-21-million-more-in-extreme-poverty-between-2018-2020/>>

<sup>34</sup> Ibid.

<sup>35</sup> Coneval, ‘Medición de pobreza 2018. Población según pertenencia étnica’ (2018), online: <[https://www.coneval.org.mx/Evaluacion/PublishingImages/Pobreza\\_2018/POBLACION\\_PERTENENCIA\\_ETINI\\_CA.jpg](https://www.coneval.org.mx/Evaluacion/PublishingImages/Pobreza_2018/POBLACION_PERTENENCIA_ETINI_CA.jpg)>

<sup>36</sup> New American Economy Research Fund, ‘Contributions of Undocumented Immigrants by Country of Origin’, (8 March 2021), online: <<https://research.newamericaneconomy.org/report/contributions-of-undocumented-immigrants-by-country/>>

<sup>37</sup> World Resources Institute, ‘Press Release: Analysing the impacts of Sembrando Vida on forest cover and migration’ (17 March 2021), online: <<https://wrimexico.org/news/bolet%C3%ADn-de-prensa-analizan-impactos-forestales-y-potencial-de-mitigaci%C3%B3n-de-sembrando-vida>>



accounts for at least seventy percent of the wood sold in the country.<sup>38</sup> A number of million-dollar reforestation programs have already been launched in Mexico to counter deforestation, including the ProArbol programme in 2007, but the programmes were broadly unsuccessful, and have been ‘denounced for mismanagement, irregularities, and financial anomalies’.<sup>39</sup>

In the preamble to the regulations for Sembrando Vida, the Mexican government highlights that Mexico is a country rich in natural resources, biodiversity and culture, and that this wealth is concentrated in rural areas where the largest part of the ‘original peoples’ (los pueblos originarios) and the Afro-Mexican communities live. Through their knowledge and traditional practices, the government affirms, ‘they have known how to preserve the resources that they have in their surroundings’.<sup>40</sup> On the other hand, it is underlined that the areas that are richest in biodiversity are those with the ‘greatest indicators of poverty and marginalisation’, which is seen to be due to the fact that political and institutional programmes that ‘value’ agriculture and augment the level of welfare in rural homes have not been established.<sup>41</sup> Due to these conditions of poverty, the preamble to the regulations continues, the rural regions of the country have suffered ‘a process of deforestation and overexploitation of resources’, which has impacted negatively on their microclimates, further damaging the socioeconomic conditions of the populations and generating food shortages for the communities.<sup>42</sup> Nevertheless, as the passage introducing the programme stresses, the rural zones of Mexico can be converted into a ‘strategic sector for the development of the countryside if their productivity is increased in line with a focus on sustainability’.<sup>43</sup> With this goal in mind, Sembrando Vida will incentivise ‘agrarian subjects’ in Mexico to establish productive agroforestry systems that include milpas, to enhance food security, thereby contributing to generating jobs, incentivising food ‘self-sufficiency’, boosting the incomes of the population, and reforesting one million seventy five thousand hectares of the country.<sup>44</sup>

It is repeatedly underlined in the regulations that the Programme recognises the vital role that indigenous communities and peasants in Mexico play in conserving biodiversity. Sembrando Vida is categorised as a social programme for constructing a welfare state (un estado con bienestar) under Article 2 VI of the National Development Plan or PND (Plan Nacional de Desarrollo) 2019-2024.<sup>45</sup> The PND’s purpose is to specify the national objectives, strategy, and priorities for Mexico’s inclusive, equitable, and sustainable development. Under Article 1 III of the plan, the Government commits to advances its policies in ‘full respect for human rights’ (Pleno respeto a los derechos humano).<sup>46</sup> In all circumstances, it is stipulated, the government ‘will be guided by a concept of development that rectifies social injustices and promotes economic growth without disturbing peaceful coexistence, bonds of solidarity, and

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<sup>38</sup> SIPaz, ‘FOCUS: Between deforestation and poor reforestation – Mexico, a country of authorized ecological destruction’ 27 September 2019, online: <<https://www.sipaz.org/focus-between-deforestation-and-poor-reforestation-mexico-a-country-of-authorized-ecological-destruction/?lang=en>>

<sup>39</sup> Ibid.

<sup>40</sup> Introduction, Agreement on the Rules of Operation for the Sembrando Vida Programme. Government of Mexico (2020), online: <[https://www.dof.gob.mx/nota\\_detalle\\_popup.php?codigo=5590695&fbclid=IwAR02YKBHLzBWWVm1jOwmWOIDBv1vKnjvKs9DMRKidd8LuJHzwoSfp7FTUfg](https://www.dof.gob.mx/nota_detalle_popup.php?codigo=5590695&fbclid=IwAR02YKBHLzBWWVm1jOwmWOIDBv1vKnjvKs9DMRKidd8LuJHzwoSfp7FTUfg)>

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Government of Mexico, ‘Plan Nacional de Desarrollo 2019-2024’ Art. 2 IV, online: <[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5565599&fecha=12/07/2019#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5565599&fecha=12/07/2019#gsc.tab=0)>

<sup>46</sup> Ibid, Art 1 III.

cultural and environmental diversity'.<sup>47</sup> The need to recognise the special contribution of peasants and indigenous communities in terms of preserving biodiversity within the country is repeatedly stressed by the government in its development plan. As President AMLO also stated in a presentation of the programme to US delegates in October 2021, 'All that we are seeing here has to do with the knowledge of science that the peasants inherited from the great Mayan culture...They know how to sew and harvest, and this knowledge was transferred from generation to generation.'<sup>48</sup> At the same time, in a further characterisation within the same speech, AMLO outlines another vision for the country without seeming to recognise the potential contradiction in his statements '[T]he most important factory in Mexico is the countryside', he insists, a factory that with further capital investment 'can give work to 450 thousand peasant farmers'.<sup>49</sup>

As the body of evidence that we will now present from our interviews underlines, the portrayal of Sembrando Vida by the Mexican government contrasts considerably with the views and experiences of people who have been supporting peasant agriculture and agroforestry in the region, as well as people directly involved in its operations. From the perspectives of our interviewees, what the Mexican state is characterising as a social scheme to assist communities and to advance agroecological food systems is a project of social engineering designed to buy votes, and to form subjectivities that will be less resistant to present and future initiatives that jeopardise community lands and traditional knowledge systems, including those of agroecology.

## **II. Understanding Sembrando Vida: Evidence from organisations and communities impacted by the Programme**

Here we present findings from qualitative research with a variety of organisations and individuals in different regions of Mexico who are working on the ground with peasant communities impacted by Sembrando Vida. The data we draw on was gathered as part of a series of semi-structured interviews with seventeen different individuals and groups impacted by Sembrando Vida in the regions of the Yucatán peninsula, Oaxaca, and Chiapas. Many of the interviewees are members of organizations including La Via Campesina México, Network of Seed Guardians (Red de Guardianes y Guardianas de Semillas), Union Of Organizations of the Sierra Juarez of Oaxaca (UNOSJO), Network of Indigenous Ministry Agents (Enlace de Agentes de la Pastoral Indígena (EAPI)), the Centre for the Study of Rural Change in Mexico (Centro de Estudios para el Cambio en el Campo Mexicano (CECAAM)) and Network in Defense of Maize (Red en Defensa del Maíz). Almost all of these organisations are also part of the National Indigenous Congress (Congreso Nacional Indígena (CNI)) – the organization formed after the very first nationwide indigenous congress ever held in Mexico, which took place in October 1996.<sup>50</sup> The interviews were conducted over Zoom and in person by members

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<sup>47</sup> Ibid, Section 2, Social Policy, 44.

<sup>48</sup> 'Presentation of the Sembrando Vida Programme to Delegates of the Government of the United States of America, from Chiapas', Website of Lopez-Obrador, (18 October 2021), online, <<https://lopezobrador.org.mx/2021/10/18/version-estenografica-presentacion-del-programa-sembrando-vida-a-delegacion-de-estados-unidos-de-america-desde-chiapas/?fbclid=IwAR0gQoszRNMJ4D8B3TSIO4yP3MtQ4-QqZ3rvV13waKFxQoVJl6QtMFx83kc>>

<sup>49</sup> Ibid.

<sup>50</sup> '¿Qué es el CNI?', online: < <https://www.congresonacionalindigena.org/que-es-el-cni/>>

of the Project Team in the period between November 2020 and July 2021. Some of these groups are NGOs who have been working with communities on projects relating to peasant autonomy and food sovereignty; others are academic organisations that study agrarian change in Mexico. A few of the individuals have been involved directly in the Sembrando Vida programme, either as participants or as facilitators. Of the 17 interviews, 2 were with government program technicians in Tabasco and Chiapas; 5 with representatives of peasant organizations in Campeche, Oaxaca, Guerrero and Chihuahua; 3 with NGO researchers; and 7 with program beneficiaries in La Selva Lacandona in Chiapas. Names and identifying remarks have been removed to protect the anonymity of the interviewees. In reviewing the material gathered through the interviews, four common themes that resonate throughout the interviews have been chosen for discussion: A) perverse incentives: interference with traditional agriculture and deforestation; B) moulding a productive workforce and changing peasant ways of life; C) breaking down communities: land and ethos; and D) clearing the way for mega-development projects: the Maya train and the Transisthmus Corridor.

Before moving on to this discussion, it is first necessary to offer some (necessarily brief) context on the nature of land ownership in Mexico, and the historic progress of agrarian reform that has shaped these territories and the agencies within them. The regions of Mexico in which Sembrando Vida is operational are very diverse: some are already densely forested and mountainous, notably Chiapas and Oaxaca, others, such as the Yucatán peninsula, have been transformed by the expansion of industrial agriculture, which is practiced by settling Mennonite communities in the Chen region of the Yucatán. What many of the regions have in common is that they have high concentrations of land that is under one of a number of forms of community ownership including the '*ejido* system' and '*bienes comunales*'.<sup>51</sup> The *ejido* system was established in the aftermath of the 1917 Mexican Revolution. Formalised under Article 27 of the Mexican Constitution, the *ejido* structures conferred a form of land title upon *ejido* members that allowed them to use land and water within the demarcated territories. Between the 1930s and the late 1970s, the Mexican government transferred almost half of the territory of the state to the *ejido* sector, which significantly enhanced the access of rural communities to land and resources. 'Local *ejidos* became one of the more formidable groupings of smallholders, driving political and economic change at the municipio level and redistributing local power'.<sup>52</sup> The advent of the Mexican debt crisis in the 1980s provoked a reversal of these earlier policies, as the Mexican government sought to introduce a series of market-based-land-reforms. Under the Programa de Certificación de Derechos Ejidales y Titulación de Solares (PROCEDE), the government sought to map the communal lands of the *ejidos*, and to give *ejidatarios* the right to privatise their lands, though they were not forced to fully enclose their 'commons'.<sup>53</sup> During the presidency of Carlos Salinas de Gortari (1992-1993), a further series of neoliberal constitutional reforms were pushed through as the government sought to make the Mexican countryside more productive, and the move led to widespread uprisings by rural communities and indigenous peoples, which was further ignited by the signing of the North

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<sup>51</sup> Bienes Comunales are one of a number of types of community land tenure established under the Mexican Constitution of 1917. The purpose of the Bienes Comunales land regime was to return land to its original communal owners under the assumption that they were dispossessed or subject to disentanglement. However, the actions of the Mexican government were calculated in many cases to ensure that land was governed by groups with allegiances to the government, and, in many contexts, these developments led to intra-community conflicts. Héctor Calleros-Rodríguez, 'Land, conflict, and political process: the case of the Lacandon Community, Chiapas, Mexico (1972–2012)' (2014) *J Peasant Stud* 41:1, 127-155, 129.

<sup>52</sup> Eric P. Perramond, 'The Rise, Fall, and Reconfiguration of the Mexican '*Ejido*.' (2008) *Geographical Review* 98 (3): 356–7, 357.

<sup>53</sup> *Ibid*, 358-9.

American Free Trade Agreement (NAFTA) in 1993, the terms of which requested further privatization of land.<sup>54</sup> There has thus been a long-standing conflict between rural communities, the state, and corporations in many of these regions, as peasant communities and indigenous peoples have sought to counter repeated attempts by the Mexican state to incorporate their lands into a broader productivist logic. The developments that we discuss below have to be understood in this wider context.

#### A. Perverse incentives: interference with traditional agriculture and disruption of ecosystems

In contravention of the declared goals of the Sembrando Vida, a common issue for many of our interviewees was that the programme was not, in fact, contributing to increased biodiversity and the advancement of food self-sufficiency, but was instead incentivising deforestation, propagating the planting of trees that are ill-suited to local conditions, and interfering with traditional systems of community agriculture.

In the Chen region of the Yucatán peninsula, one interviewee noted that *'the program Sembrando Vida is currently causing those reserves of land that are the ejidos - and in the hills - to be cut down. We're seeing that as a result of joining Sembrando Vida, a whole region that previously hadn't been deforested for agriculture is being deforested to put those pieces of land into the program Sembrando Vida'*. This is because the cash payments for Sembrando Vida are only eligible for land in need of reforestation. Clearing or burning down trees to clear land and make it eligible for the programme is forbidden by Sembrando Vida's rules of operation; yet the programme creates strong monetary incentives for this to occur. However, other interviewees took issue with this blanket ban on deforestation, noting that it forms part of a longer-standing war that the Mexican government has waged on shifting cultivation or rotational agriculture, which has been practiced for centuries as part of an agroecological form of food production by many peasant communities.<sup>55</sup> *'But the large majority of people...what they do is fell a little – not necessarily clearcutting. They burn a little. They don't necessary leave the terrain razed, and they take advantage of all that hot ash to give fertility to the soil, and if there are the necessary conditions for the population or the communities to rotate their plantings within that territory in which they move, bit by bit they plant in different places. It becomes a very sustainable thing, and we still see it in Chiapas.'*

In addition to the problem of Sembrando Vida incentivising deforestation and outlawing the traditional and sustainable practice of shifting cultivation, a further issue with the programme is that the technicians in charge of the process are planting trees that are unsuitable for the regions concerned. In the case of the Yucatán, our respondent noted that the trees being planted *'are cedar, mahogany - that is, the same ones that have been used in the history of reforestation of the nation - species that are very... it's not to say they're exotic but they require a lot of care. They're very fragile, weak, to survive in environments like the tropics here of the peninsula'*. In Chiapas it was noted that *'of these varieties that we see that the program has*

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<sup>54</sup> See Daniel G. Arce M, 'The Political Economy of the Neo-Liberal Transition' (1999) Latin American Research Review 34 (1): 212; Assies, W. 2008. Land Tenure and Tenure Regimes in Mexico: An Overview. Journal of Agrarian Change 8 (1): 33-63.

<sup>55</sup> Alvaro Salgado Ramirez, 'Sembrar trabajo comunitario para cosechar Vida' in Centro de Estudios para el Cambio en el Campo Mexicano (CECAAM), *Comunidad y Autonomía Frente a Sembrando Vida* (Ebook, 2021) online: <<https://www.ceccam.org/sites/default/files/comunidad%20y%20autonomia.pdf>> 61-93.

*provided, in the majority of the nurseries that we've entered, above all in the region of Pantelho, we've seen that the plants are not adapting; they're suffering stress from being introduced to a place where they weren't planted and they're dying...They haven't been able to adapt'. One interviewee cited a source that suggested that '30% of all seeds is what's surviving. They're not even all surviving because they're not adapted to the region'. A further complaint was that the technical advisers of the programme were not interested in learning 'the wisdom of the people who have lived together with nature in their territory', as the office of President López-Obrador claims. As a respondent from the Yucatán underlined, 'We have cases of people for example who planted achiote [Bixa orellana]. This is a species used a lot here on the peninsula for food, and they [the technicians] aren't wanting to recognize that, although it's a tree and it's endemic, and it has culinary use, but they told them [the communities] no.'*

Reports on the role of the technicians were varied: *'Some people from Veracruz have told us that among the technical advisors, there's some who have come from longstanding peasant organizations who are taking a more agroecological approach to the program'. Others found that the parameters of the programme and the power exercised by the technicians had very harmful consequences: 'the technical advisors – who are the ones who interact with the peasants – define a quota of trees that should be planted in a plot, and that quota in some cases for some peasants seems extremely high - that it's a lot of trees to plant in two and a half hectares'. The large quantity of trees concerns peasant farmers participating in the programme because 'the trees ended up beating the milpa over time, because the trees grow, and their crowns begin to block the sun, and this type of shade in the end impedes the milpa's growth, threatening local access to food. The use of chemicals to encourage growth in some regions contravenes the purportedly 'agroecological' nature of the programme, and has raised further concerns. 'They've told us in many places that it's rather "Sembrando Muerte" [planting death, as opposed to planting life], for example because of the way they're using chemicals on the trees, as we've seen'.*

Beyond the threat posed by the growth of the trees being planted, the programme also had the effect of disincentivising people from growing as much of their own food through traditional practices, and it produced a new reliance on purchasing food: *'we consider the principal problem to be that the people who join the program generally have stopped planting milpa. So the need arises to purchase maize and beans. So the family economy is totally affected, aside from the rest – the symbolic, cosmogonic, epistemological aspects involved with planting milpa in relation to knowledge and in relation to many things that we know to make up communitarian life.'* They are *'breaking with the peasant productive system.... in this sense the program is affecting the true milpa system – the milpa system from below, not that of academia'*, one respondent from the Yucatán stated.

## **B. Moulding a productive workforce and changing ways of life**

Another set of concerns voiced by several of the groups and individuals that we interviewed related to how Sembrando Vida was changing ways of life within peasant communities, including altering work habits, eroding autonomy, interfering with community governance systems, and incentivising new behaviours that are in tension with community values.



As one group of respondents commented, the programme *'sometimes generates conflicts among the family or in the community, and has economic implications in the jobs that they're being asked [to do]. They have to work Monday to Sunday, every day, and it starts breaking with communitarian dynamics or ways of traditional organization, and start to individualize the properties'*. Interviewees from Chiapas shared some of the views of peasants in their region collected at meetings that they had had with people who participate in the programme. *'They said they have to follow the guidelines, but in the end they "feel like slaves on our own land". That was the expression they used, "because the programs tell us what we have to do, how we have to do it, and when we have to do it", going against the foundations of local knowledge – all of the cosmovision, the knowledge, traditional synchronization with the cycles of the moon that they follow. Those are broken, because now it's according to guidelines and things are done following the institutional [government departments'] calendar.'* In Oaxaca, similar views were expressed: *'the peasants of Oaxaca feel they are indentured servants, in the sense that the technical advisors say what has to be done'*. There were strong feelings expressed about the deeper shift in subjectification that the programme is bringing about. *'Sembrando Vida is...nothing more than disabling in the strictest sense of the word – disabling of peasant knowledge, disabling of the virtues of a community and of a connection and mutuality with other people, and brutal erosion of peasant knowledge, going to the extreme of telling them they don't know how to plant and that they have to change precisely everything that they've known before to begin to be "agroecologists"'*. In some regions, these dynamics had caused participants to exit the programme: *'So several have left the program despite all the money that they were giving them. I think few have been able to choose to be free and not have money instead of having to obey for the benefits.'*

There have been many reports of negative impacts of the programme in terms of its legacies, and in terms of how it is reconditioning behaviours in many communities. As respondents in Yucatán highlighted, *'They've said it very clearly - the program will last five years...So we're saying that it will last 5 years, in a process of transition in which the peasants who previously had their own seed, who had peasant practices, will have been converted into proletariat who when the program ends will require that set income'*. Another concern was that this set income will have allowed people in the communities *'to incur debt, which is already happening. Some peasants are already taking out their motorcycles. Obviously, all of this is on credit, right? Motorcycles, televisions, electronic devices, computers, cell phones... simply debt, from "groceries", which allows them to go about depending more on the program to pay the debt.'* *'So we see these two characteristics',* the interviewee continued, *'they're becoming people who are used to that sum, but also consuming based on credit. So when the 5 years of the program are up, that will only have deepened...now they will "need" a job to continue paying that debt, to continue to sustain that lifestyle based on credit consumption'*.

In addition to changing labour dynamics and conditioning a new reliance on wages and credit, the programme is seen to be causing a degradation of the governance structures of the community. As respondents from Chiapas commented, *'We've also seen that it has caused problems among family members, as well as communitarian problems... [the programme] is breaking not only with the mechanism of the community assembly for making decisions and agreements and managing territory, but also with the family. It greatly imposes territorial control, weakening the communities' organizational practices.'* In Chiapas, it was underlined that Sembrando Vida is producing a decline of highland systems of growing coffee: *'They've abandoned the coffee groves to place more emphasis on the program. Furthermore, it's very rigorous. It has its calendar, its list of tasks to carry out, and it demands a lot of labor from the peasants. So they stop caring for other systems that they traditionally maintain in the*

community'. It was further noted that the model is producing a kind of standardisation and new control of land and living spaces. *'So when we go to the communities, we see that the model is homogeneous. They're like "Teletubbi" [cartoon] houses; the houses and even the fences are all exactly the same; the nursery area is always the same. The size is the same. Suddenly we began to see something like the suburbs of the 80s in some regions of the United States – the model home with its fence painted white and its trash bins. It's a very western model that's being imposed. That concerns us a lot'*.

### C. Breaking down communities: land and ethos

As noted at the outset of this section of the article, the operations of Sembrando Vida have to be understood against the broader background of constitutional land protections and land reform in Mexico. As a consequence of the ejido system, land cannot simply be bought and sold on a market, as it is in many other parts of the world. Land ownership is tied into structures of communal governance and is passed down through generations. Everyone interviewed in our study believed that Sembrando Vida was interfering with community land governance, and that the programme was designed to enable the government to effectively take control over the land indirectly, by enrolling people in a social development programme and requiring them to make the land 'productive', in accordance with a narrow understanding of that term.

One of the key issues noted in a number of interviews was the inegalitarian distribution of the benefits of Sembrando Vida.<sup>56</sup> The rules of the programme enable an application by an individual, and that individual must be in possession of at least 2.5 hectares of suitable land. Rights are individually, rather than communally granted, with strict eligibility rules. This means only some, and not all, members of any given community can be enrolled in Sembrando Vida. Under some of the ejido structures in different regions, there are individuals and families who do control 2.5 hectares of land, meaning that they can apply for the programme directly. In other cases, individuals need to ask the community organisation in charge of a larger ejido if they can be granted 2.5 hectares to use to participate in the programme. As one respondent stated, one of the problems *'has to do with exclusive selection of only some farmers who have certain rights. They're not families. It's the people that have certain tenancy over the land – a title of property or some rights over the land, so that's a way of excluding the community population'*. Another interviewee notes that the government *'say that they prioritize peasants who don't have land, and women who don't have land either'*, which means that *'for those who don't have land they're going to ask the ejido, the community, to lend them land, but that borrowed land is going to be in the communal use areas, because no peasant is going to loan their plot to another to use it. So in these communal use areas they seek to plant, but at the same time subdivide the land'*.

The process of selection was noted by thirteen respondents to be sowing tensions within the communities. *'By being selective, this program causes divisions inside of the community. The people that form a part of Sembrando Vida start being differentiated economically and socially from the rest of the community'*. The programme was stirring up tensions and generating conflicts, and breaking down the values of community self-governance. *'There they are seeking to get into a very internal part of the life of the communities, separating the peasants that receive "Sembrando Vida" from those that don't receive "Sembrando Vida" and*

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<sup>56</sup> Ana de Ita, 'Sembrando Envidida' in *ibid*, 13-27.

*the collective organization of land management'. Thirteen respondents argued that the programme was producing a form of privatisation by stealth: 'And people that devoted all those years to planting and caring for those trees aren't going to want to return that land for communal use, so it's a form of privatization from within'. People will think 'These are my two and a half hectares, so returning them for communal use I think is going to be complicated; it's going to generate internal conflicts in the ejidos and the communities of... well, finally of who that land belongs to'. It's a form of privatization of plots from within the ejido and the community. I think that's the issue.*

Nine respondents brought up the longer-history of land governance in Mexico, noting that the Mexican state has repeatedly tried to find pathways to renege on the constitutional commitment to agrarian reform and redistributing land that was part of the post-revolutionary constitutional settlement. *'[S]ince 1992 they tried to privatize the land, and we think that Sembrando Vida is oriented toward privatizing land, to eradicating the community, to erosion of that community and erosion of the agrarian structures [laws] that we have today. Everything that PROCEDE [government program to individualize collective landholdings] didn't achieve, Sembrando Vida seeks to do it. Sembrando Vida 'in reality is intended to directly bring down that shifting agriculture', another respondent insisted. 'Because the first thing they say is, "Don't think you're going to plant with shifting agriculture here in this plot that we're putting into the program. No, you have to geoposition it, and it's very important that you have it in a set place so that we know where you're planting"'. It was further noted that the regulations to which participants must comply in order to stay in the Sembrando Vida programme means that 'Sembrando Vida is replacing the community assembly; it calls its members together, has meetings according to its schedule and has left the assembly aside....what we've seen is that it has left the community assembly aside and generates its own dynamic of meetings, and this has generated a lot of conflicts – principally dissolving the community assembly in the ejidos and in the common use land' 'We've also noticed that territorial dispute has been exacerbated,' they continued.*

One of the big debates centred around the ejidos and the question of whether or not they are democratic. On this question, one respondent replied that *'I think it needs more analysis, but my impression is that the government has no reason to get involved and shake things up. That is, if the people... if there are non-democratic ejidos, well of course, there are also democratic ejidos'. Speaking of the technicians and politicians that she worked with in the Programme, the respondent replied that 'I've also seen their [Sembrando Vida's] rules of operation and their documents stem from that conception that the ejido is non-democratic... they're just a bunch of old men, they don't plant anymore, the land is abandoned... All those arguments in many places are false'. Another respondent replied, 'I don't want to idealize the communities. There are a lot of problems in the communities, as you all know, and there are many types of interests that come into conflict with the true interests of the community members, but the dream of autonomy is a dream in which there's that respect, that mutuality of that shared responsibility that exists everywhere'. Four respondents acknowledged that there was a need for the reform of the governance structures of the ejidos in many contexts, notably to include more participation by women, but it was repeatedly stressed that this reform should come from within the ejidos, as opposed from being instigated from outside. *'But for a long time the ejidos and the communities have impeded that devastation in Mexico, unlike in many countries of Latin America in which they got involved before. So now, to infringe against those original structures, it seems to me that they could be anti-democratic structures... it could be, yes, but the ejido members today would be the ones that should try to change that, and not the government'. The need to consider the bigger political picture was also repeatedly emphasised.**

One interviewee acknowledged the various challenges faced by the ejidos that have impeded community governance structures in recent years, but underlined that *'the memory of collective land has remained in the hands of the peoples, in the hands of the communities, and that's what in some way has impeded devastation by big business, devastation with GMOs, and all that memory of resistance that we see in the regions of Mexico against the megaprojects'*.

#### D. Clearing the way for mega-development projects: the Maya train and the Transisthmus Corridor

In the final stage of analysis of our interviews, we want to bring to the fore the views shared by numerous participants that, in spite of state claims about the programme, its underlying political objectives are to weaken community resistance to invasive, socially and environmentally damaging infrastructure initiatives. Two specific initiatives were consistently connected to Sembrando Vida by our interviewees. The first is the so-called 'Maya (or Mayan) train', a proposal to introduce a new railway line and train to open up further regions of Mexico for greater tourism. The first section of the Maya Train is scheduled to start operating in December 2023, and will travel 1545 kilometres, connecting the states of Chiapas, Tabasco, Campeche, Yucatán and Quintana Roo.<sup>57</sup> The second initiative is the Transisthmus Corridor, which is a proposal to promote regional development through the construction of a dry canal that connects the Gulf of Mexico with the Pacific Ocean, linking the ports of Coatzacoalcas, Veracruz, and Salina Cruz, Oaxaca.<sup>58</sup> The Transisthmus corridor is designed to make transport in the region more efficient, creating a new over-land route that reduces the time and distance currently required to circumnavigate the Southern American continent via sea. The project has been proposed without meaningful advances by successive generations of Mexican presidents, and AMLO has advanced these proposals to make it a reality by building new ports and by creating a 'special economic zone', wherein companies benefit from reduced regulatory requirements and tax incentives to operate there, as contrasted with the country at large.<sup>59</sup> Twelve respondents echoed the fact that many communities have been resisting these projects for decades, and they drew our attention to problematic trends around political corruption and vote buying, as well as the convenient alliance between these mega-projects and the impacts that Sembrando Vida is producing in terms of weakening community resistance.

With regard to corruption and vote buying, it was noted that *'It turns out that the beneficiaries of the program are those who sympathize with the political party in power. The same who were promoting the party are today the beneficiaries of the program. This is what we know about how the program is operating in the communities'*. Another respondent from a different region noted that *'a very clear bias is evident. "Well, here the trans-isthmus train will go through", "Well, we have to give these people "Sembrando Vida" with the goal of purchasing their loyalty, so there's no resistance movements, so that peasant organization will be increasingly difficult."* *'The government situates the program as a prize', they continued, 'So the president goes on his tours, and depending on what the people say, if he likes them, which project... he decides, "We have to give them Sembrando Vida". It's like a gift the president gives them'*.

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<sup>57</sup> For further details of the Maya train, see the official website, online: <<https://www.alstom.com/mayan-train-project>>

<sup>58</sup> Luis Hernández Navarro, 'The Trans-isthmus corridor', 14 August 2018, online: <<https://chiapas-support.org/2018/08/14/the-trans-isthmus-corridor/>>

<sup>59</sup> Ibid.

Noting that in its original rules of operation, the government had stipulated that Sembrando Vida would be implemented in municipalities characterised by poverty, violence, and social marginalisation, and that it was specifically for people ‘below the poverty line’, several of our interviewees pointed to changes in that original framing that meant that the programme seemed to be being rolled out according to other motivations, particularly to locations earmarked for infrastructure development. *‘As it’s a very standardized program, I think the technical advisors don’t have the capacity to decide who is below the poverty line. They’ve already taken away that criteria, and now it’s that the locality be marginalized, but that’s not even a criterion, because there are communities that are better off, but that are on the Trans-isthmus Corridor. So, what has more weight? Well, that it’s on the Trans-isthmus Corridor. If they are more marginalized than the Chinantecas [in Oaxaca], well, whatever... These have more priority because the Corridor passes through them’.* Similar observations were made with regard to the Maya train. *‘Sembrando Vida doesn’t exist everywhere, not even in each municipality. There are municipalities where there’s not Sembrando Vida, because there’s no Mayan Train’.* Respondents in that region had carried out their own research seeking to understand the coincidences between Sembrando Vida and the Train: *‘friends from the Yucatán Peninsula...told us that a sort of conditioning of the program “Sembrando Vida” was occurring’*, and people were getting support *‘if and only if they supported the entrance of the Mayan Train’.* *‘And the picture was a bit more complete with all the localities in Yucatán, Campeche, Quintana Roo, Chiapas, Tabasco’*, they continued, *‘We saw that there was a strict relationship between those sites where the program is and the train route. Not just any stretch of the train route, but precisely those new stretches that would have to be constructed, because in the old stretches they already have the permits they need - the right of way - and in the new stretches no’.*

The relationship between the train project and Sembrando Vida was characterised slightly differently by different respondents. One suggested that the Programme was a kind of compensation for the ecological damage that was foreseen by the Maya Train, *‘what he’s [López-Obrador] saying is, “Although I’m destroying a whole bunch of well-conserved sites with my works - like the trans-isthmus train or the Mayan train - and I’m not compensating or mitigating as they say, I’m planting a million hectares of fruit and timber trees!”.* Others opined that the programme was deliberately designed to prevent opposition by peasants and rural communities. *‘Yes, definitely the program is working as a chain – an ideological shackle, because those who are receiving the program – this government of the fourth transformation says that it’s benefiting us, they’re giving us this support. So they say that’s if it’s so good, surely this other [government program or project] will be good too, no? So it’s serving as an ideological shackle to eliminate opposition to this megaproject poorly named the Mayan Train’.* Serious concerns were raised over the techniques used by officials of the government to obtain consent for the train project. *‘They never asked the community if they agreed with the construction of the Mayan Train in their territory. They gathered signatures in a deceitful manner, carrying out another type of consultation with the people, despite the fact that they manifested the contrary. Sembrando Vida is carrying out political proselytism with respect to the consultations about the neoliberal megaprojects’.* One respondent who had been a participant in Sembrando Vida told us that, one day, everyone in the community *‘received an audio [WhatsApp voice message] from the coordinator saying that the order is for all technical advisors to cancel all the meetings in the communities, as all the people had to go and vote in favor of the President’s project about the Mayan Train’.* *‘They provided trucks to transport the people’*, she continued, *‘The technical advisors of the community were standing next to the*



voting booths [for the consultation about the Mayan Train]. The manipulation was very evident’.

The extent to which Sembrando Vida was always intended to function to appease resistance to the Maya Train was discussed by respondents. *‘I remember in one of the morning conferences [of the President], in which Maria Luisa Albores [secretary of SEMARNAT – Mexico’s Secretariat of Environment and Natural Resources] – just when she began to speak of how the localities in which “Sembrando Vida” was functioning were interlinked with the “Mayan Train”, she said that that was premeditated by the government, that it was a project of integrity and complementarity between the programs’* This connection was evident to many of our interviewees, who linked these developments to longer-standing developmental logics and colonial practices. *‘Yes, they are connected. I think that the megaprojects that are planned provide continuity to other governments and to this colonial neoliberal project; although López-Obrador says that’s over, they’re related. They’re all connected’*, one respondent replied. Another was even more explicit, *‘the multi-modal grabbing of land and territories undertaken by what they call the Mayan train and the Trans-isthmus Corridor in reality is a web of projects of extractivism, of tourism projects, of “giro negro” projects, of real estate reconversion projects, of projects to kick out communities, of reconversion of people to their minimal expression as labor in hotels’*.

### III. Examining Sembrando Vida through the lenses of IHRL and UNDROP

The evidence gathered through our interviews with participants and grassroots organizations offers a very different account of Sembrando Vida to the presentation of this social and environmental programme by the Mexican Government. In this section of the article, we will now offer some critical reflections on Sembrando Vida through the lens of IHRL. First, we will highlight the divergence between dominant institutional and legal approaches IHRL—as reflected in legally binding IHRL instruments, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966,<sup>60</sup> the interpretative work of the relevant Treaty Bodies, and the rights-based approach to development—and critical and sub-altern so-called ‘political’ approaches to IHRL that are being developed through instruments such as UNDROP. We will argue that both of these approaches to conceptualising human rights are, in fact, political, but that they each frame the nature and purpose of human rights and their relationship to state sovereignty differently. Second, we will juxtapose how these diverging human rights frameworks approach economic development and how each framework conceptualises the Sembrando Vida programme and its relationship to human rights.

#### A. Legal versus ‘Political’ Approaches to IHRL?

IHRL began to be developed as discrete legal field in the late 1940s with the signing of the United Nations Declaration on Human Rights (UDHR) in 1948.<sup>61</sup> One important trend in the development of IHRL has been the increased institutionalisation and legalisation of IHRL,

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<sup>60</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993.

<sup>61</sup> *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71.

notably through the development of the two binding International Covenants in 1966,<sup>62</sup> and the creation of accountability mechanisms, including the ten human rights treaty bodies that are responsible for overseeing the implementation of different human rights treaties.<sup>63</sup> Core functions of this institutionalised system for the protection of human rights are to lend greater specificity to the nature of state's legal obligations under IHRL through the system of General Comments of the Treaty Bodies, and to create monitoring mechanisms to improve compliance with IHRL. The approach to development that has emerged through the core IRHL system in recent decades is the 'rights-based approach to development', which draws from a 'wide array of international human rights treaties and declarations, as a way of operationalising, planning and programming development'.<sup>64</sup> The rights-based approach is underpinned by a set of key human rights principles, articulated by the United Nations Food and Agriculture Organization as the PANTHER principles – a mnemonic that stands for principles and values of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law.<sup>65</sup>

The dominant approach to IHRL as reflected in the 'core' human rights instruments and the work of the Treaty Bodies sees human rights as legal claims that are actionable primarily against states. The complex role of the state, which can both violate and realise human rights, is recognised under the tripartite typology of state obligations that is the hallmark of the dominant approach: states must *respect* human rights, intimating that they can be violators; *protect* rights from violation by third parties, assigning states a very different character and role; and *fulfil* human rights, once again positing the state as an agent capable of proactively shaping the political, economic and social conditions under which rights can be enjoyed. Nevertheless, in light of their commitment to political neutrality, there is little discussion by Treaty Bodies of what critical perspectives insist are the incompatibilities between particular structures of global and domestic economies and modes of governance and the enjoyment of human rights by all.<sup>66</sup>

In reaction to what is perceived by many populations in the global South as the Eurocentric individualised corpus of IHRL, alternative approaches to the mainstream legal core of IHLR have emerged over the decades. Through processes in the political institutions of the UN, mobilisation by countries in the global South has led to the creation of new human rights instruments, often in the form of non-binding Declarations, as opposed to legally-binding Treaties or Conventions, that reconceptualise human rights and position human rights as a tool to challenge deeper structural characteristics of the global political economy. UNDROP is one such instrument, and it was preceded by other declarations, including the United Nations

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<sup>62</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171; ICESCR supra n 56.

<sup>63</sup> 'What the Treaty Bodies do', online: <<https://www.ohchr.org/en/treaty-bodies/what-treaty-bodies-do>>

<sup>64</sup> Oche Onazi, *Human Rights from Community: A Rights-Based Approach to Development* (Edinburgh: Edinburgh University Press, 2013), 28.

<sup>65</sup> For a detailed discussion of the principles-based approach to realizing a right to adequate food in particular see Alejandro Morlachetti, *The rights to social protection and adequate food: Human rights-based frameworks for social protection in the context of realizing the right to food and the need for legal underpinnings*. (2016) FAO Legal Papers No.97.

<sup>66</sup> Anna Chadwick, 'Human Rights, Poverty, and Capitalism' in Egan, Suzanne, Anna Chadwick (Eds), *Poverty and Human Rights: Multidisciplinary Perspectives* (Edward Elgar Publishing Limited, 2021).

Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>67</sup> and the Declaration on the Right to Development.<sup>68</sup> Each of these instruments advances what have been categorised as ‘third generation’ human rights, which are often solidarity rights, collective rights, or rights of specific classes that have attained international recognition as human rights but which are not easily classified as either civil or political rights, or economic social and cultural (ESC) rights.

‘Third generation’ human rights, and even ESC rights, are characterised by some theorists of human rights as an unacceptable ‘expansion’ of human rights that weakens the special power of human rights to function as powerful legal tools to prevent encroachment on the lives of individuals by the state.<sup>69</sup> Yet the neat parsing of legally binding first and second generation individual human rights and non-binding collective third generation human rights is frustrated by the human rights treaties, as Common Article 1 of both binding International Covenants recognises a human right *of peoples* to self-determination, affording them the freedom to ‘determine their political status and freely pursue their economic, social and cultural development’.<sup>70</sup> What is more, the language of generations, which conveys an idea of original list of individual human rights and their subsequent expansion to cover other collective interests has been strenuously challenged. In a recent contribution, Susan Marks recovered a lost radical tradition of human rights thinking that significantly pre-dated the commonly-cited origins of human rights in the French and American Revolutions,<sup>71</sup> and demonstrates that the original conception of freedom that animated early English theorists of human rights, including Thomas Spence and Mary Wollstonecraft, was not restricted to that of creating a separate civil and economic realm in which individual freedom is protected by civil and political rights against the trespasses of a powerful sovereign. Rather, freedom meant true emancipation, which was seen to require access to land and productive resources as rights. The conception of human rights of these early thinkers, who were writing in a context of enclosures of formerly common land and the development of industrial capitalism, has more in common with the right to food sovereignty enunciated under UNDROP than it does with the so-called ‘first’ generation of civil and political rights.

We contend that what distinguishes so-called first-generation rights from other generations of rights is not the order in which these claims started to be articulated in the language of rights, but how these different conceptions of human rights relate to the nature and constitution of the state. ‘Subaltern’, ‘critical’, ‘heterodox’, and ‘radical’ approaches to IHRL tend to see human rights as political and legal tools that should be used to dismantle an unjust and inequitable global political economy. These approaches are often highly critical of states, eschewing the legal formalism of dominant IHRL, which trades in abstract principles and constructs and refuses to lend historical specificity or political characterisation to state practices. On these so-called heterodox or political accounts, there can be no meaningful analysis of state obligations

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<sup>67</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples* : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295.

<sup>68</sup> UN General Assembly, *Declaration on the Right to Development* : resolution / adopted by the General Assembly, 4 December 1986, A/RES/41/128.

<sup>69</sup> For examples of literature advancing concerns about human rights expansionism on various grounds, see: Onora O’Neill, ‘The Dark Side of Human Rights’ (2005) *International Affairs* (81)2: 427-439; Anne Peters, *Beyond Human Rights: The Legal Status of the Individual in International Law* (English edn, Cambridge, Cambridge University Press, 2016), especially Chapter 14; John Tasioulas, ‘Saving Human Rights from Human Rights Law’ (2019) *Vand. J. Transnat’l L.* 52(5): 1167-1207.

<sup>70</sup> Article 1 ICCPR and ICESCR.

<sup>71</sup> Susan Marks, *A False Tree of Liberty: Human Rights in Radical Thought* (Oxford: Oxford University Press, 2019)

and duties, or of ‘causation’ leading to human rights ‘violations’, that does not take into account the complicity of sovereign states (many of which were former colonial powers) in erecting social, economic, and political structures that subject ordinary workers, citizens, and migrants to undignified living and working conditions, foreseeably denying their human rights. Importantly, from the point of view of critical and sub-altern perspectives on human rights, the mainstream project of further empowering states to take control over the governance of the economy and of society based on an understanding that governments will ‘respect, protect, and fulfil’ both civil and political and ESC rights overlooks the fact that states—their bureaucracies, their modes of governmentality and the epistèmes and knowledge-systems through which they try to control populations—are deeply coloured by colonial histories and by neoliberal conceptions of economic development that create the social and economic conditions in which human rights are routinely violated.<sup>72</sup>

Scholarship that interrogates power and its manifestations and operations in government highlights the reification of the category of ‘the state’ in political and legal theory (and in many theories of human rights), arguing that the state possess ‘neither the unity nor the functionality ascribed to it’ and insisting that it is ‘a “mythical abstraction” which has assumed a particular place within the field of government.’<sup>73</sup> In the assumption that the government sits at the top of a hierarchical legal order in which it can control the behaviour of other agents within its territory, dominant approaches to IHRL install a Eurocentric ideal of state sovereignty and sovereign equality as a *sine qua non* of a universal IHRL, denying the gap between the ideal of sovereignty and the realities of governance in most countries, and obscuring the particular political conditions and colonial legacies that prevent sovereignty from operating in this way in many states in the global South. As scholars examining the enjoyment of human rights in rural contexts in the South find, often ‘[g]overnments may be either unable – due to lack of effective control over parts of their territory, or due to lack of resources – or unwilling – due to corruption or internal power struggles – to intervene to ensure the realisation of rights in practice.’<sup>74</sup> Yet, as Oche Onazi has underlined, as a result of the fetishization of state under IHRL ‘the possibilities of realising human rights are placed within the potential and limits of state action, apart from the relationship between individuals being mediated through the state’.<sup>75</sup> The differences between dominant legal and institutional approaches to IHRL and the approach emerging through UNDROP can be further illustrated in terms of how each alternative discourse and practice of human rights would perceive Sembrando Vida and its relationship to human rights.<sup>76</sup>

## B. Sembrando Vida, Human Rights, and the State through the lens of dominant approaches to IHRL

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<sup>72</sup> Ben Golder, ‘Beyond Redemption? Problematising the Critique of Human Rights in Contemporary International Legal Thought’ (2014) 2 LRIL 77B; Bai Sokhi-Bulley, *Governing (Through) Rights* (London: Hart Publishing, 2016); Jessica Whyte, *The Morals of the Market. Human Rights and the Rise of Neoliberalism* (Verso, 2019)

<sup>73</sup> Rose and Miller discussing Foucault’s work on governmentality. Nikolas Rose and Peter Miller, ‘Political Power beyond the State: Problematics of Government’ (1992) *The British Journal of Sociology* 4(3) 2, 175. Michel Foucault, Arnold I. Davidson, and Graham Burchell. *The birth of biopolitics: lectures at the Collège de France, 1978-1979* (London: Palgrave Macmillan, 2008)

<sup>74</sup> Sandwell et al, *supra* n 12, 6.

<sup>75</sup> Onazi, *supra* n 61, 24.

<sup>76</sup> For further analysis of UNDROP, see Priscilla Claeys & Marc Edelman, ‘The United Nations Declaration on the rights of peasants and other people working in rural areas’ (2020) *J Peasant Stud* 47 (1);

It is important to acknowledge that the rights-based approach to development that has emerged from the dominant approach to IHRL contains powerful tools that, if adhered to, could prevent human rights violations occurring through development programmes such as Sembrando Vida. Notably, the rights to participation and empowerment under the PANTHER approach should, if interpreted strictly, require that those constituencies impacted by development policies play a leading role in their elaboration, and that development programmes that do not have legitimate community consent do not go ahead.<sup>77</sup> However, as experiences with a legally well-developed human right, the right to ‘free, prior, and informed consent’ (FPIC), have shown, even when a human right has constitutional protection, interpretations of the requirements of meeting the right often dilute its impact, such as by introducing time constraints on consultations, by restricting its application to specific groups (indigenous peoples), and by not interpreting the right as granting communities a veto over development projects.<sup>78</sup> Hence, the rights-based approach to development advances a set of tools that could protect the rights of communities impacted by development projects, but, at the same time, by grounding rights-based approaches in a Liberal conception of consent that underweights the vast power imbalances, resource differentials, and knowledge-frameworks that conditions such interactions and bargains, it can serve to legitimise problematic projects through a veneer of participation and agreement. What is more, the rights-based approach presupposes that the state is the legitimate author of policies that seek to improve productive outcomes through an implicitly growth-centered economic model.

When looked at through the lens of dominant legal approaches to IHRL, many of the actions taken by the Mexican government correspond to what the state is required to do in order to meet its international human rights obligations. We will illustrate this briefly with reference to an important human right in this context: the right to adequate food. Under Article 11 of the ICESCR 1966 on the right to adequate food, states are required to ‘take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources’.<sup>79</sup> The commitment to developing the ‘most efficient’ food systems and utilisation of natural resources through the use of ‘technical and scientific’ knowledge elevates the knowledge systems of scientific communities above those of peasant communities pursuing traditional production methods, and it positions nature as a resource to be exploited for human needs. The fact that the need for an ‘efficient food system’ is foregrounded further implies that states should implement a food system in which food is produced and distributed quickly, and at low cost. Combined with the orientation towards technical and scientific knowledge, the ICESCR orients states towards industrialised, large-scale food production systems that can produce food rapidly and at scale. Taking into account the second part of Article 11(b), which mandates states to take into ‘(b)...the problems of both food-importing and food-exporting countries, to ensure an equitable

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<sup>77</sup> Patrick Twomey, ‘Human Rights-Based Approaches to Development: Towards Accountability’ in Mashood Baderin (ed.) and Robert McCorquodale (ed.) *Economic, Social, and Cultural Rights in Action* (Oxford: Oxford University Press, 2007).

<sup>78</sup> Kinnari Bhatt, *Concessionaires, Financiers and Communities: Implementing Indigenous Peoples' Rights to Land in Transnational Development Projects* (Cambridge: Cambridge University Press, 2020); Nathan Yaffe, ‘Indigenous consent: A self-determination perspective’ (2018) MJIL 19(2): 703-749.

<sup>79</sup> Article 11a ICESCR.



distribution of world food supplies in relation to need,’<sup>80</sup> IHRL indicates that states should pursue an export-led food production model in order to ensure that international needs for agricultural and food products are met. Hence, when looking through the lens of IHRL, the actions taken by Mexico to try to render the rural communities of Mexico ‘more productive’ are in accordance with its human rights commitments, at least if its actions in doing so do serve to enhance national and international food security.

Prevailing conceptions of the nature of socio-economic rights in IHRL lend further support to a growth-centric economic model, positioning that model as a necessary component of ‘realising’ rights such as a right to food, a right to health, and a right to housing. The ICESCR refers to the right of everyone to the ‘continuous’ improvement of living conditions’,<sup>81</sup> and enjoins states to use ‘the maximum of available resources, to support the progressive realization of ESC rights’.<sup>82</sup> It is thus assumed, Vandenhoele argues, that resources increase with economic growth, suggesting that the realisation of these rights is ‘premised on economic growth.’<sup>83</sup> Likowsky offers a similar diagnosis finding that growth and infrastructure projects ‘are a precondition to economic development and thus necessary for rising standards of living’ under dominant human rights frameworks.<sup>84</sup> The influential typology of state obligations with respect to rights under IHRL is also problematic when considered from a food sovereignty perspective. The key paradigm for understanding state obligations with respect to IHRL is the ‘respect, protect, fulfil’ paradigm advanced by Asbjørn Eide in the 1980s. Acting in his role as Special Rapporteur on the Right to Adequate Food, Eide formulated the legal terms in 1987 as ‘[t]he obligation to respect, the obligation to protect, and the obligation to fulfil human rights.’<sup>85</sup> In doing so, he drew on the work of philosopher Henry Shue, who had elaborated these obligations in 1980 as meaning ‘to avoid depriving’, in the case of the obligation to respect, ‘to protect from deprivation’, in the case of the obligation to ‘protect’, and ‘to aid the deprived’, in the case of its duty to fulfil human rights.<sup>86</sup> For many proponents of food sovereignty, the portrayal of people as ‘deprived’ is a part of a discourse of development that legitimates intervention by the state into the self-governing practices of communities based on metrics of ‘wealth’ and ‘poverty’ that exclude the multifaceted prosperity enjoyed by communities who practice agroecology.

In recent years, a notable shift has been underway within the UN system as successive Special Rapporteurs on the right to adequate food have highlighted structural issues in the food system, and have focused on the human rights of food producers.<sup>87</sup> UNDROP is one of the latest developments in a longer process whereby proponents of food sovereignty, led by LVC, have sought to reform the institutional structures of the UN and to encourage the development

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<sup>80</sup> Article 11b ICESCR.

<sup>81</sup> Article 11(1) ICESCR.

<sup>82</sup> Article 2 ICESCR.

<sup>83</sup> Wouter Vandenhoele, ‘Planet and People: making human rights distributive by design’ in Suzanne Egan and Anna Chadwick (Eds), *Poverty and Human Rights: Multidisciplinary Perspectives* (London: Edward Elgar Publishing Limited, 2021) 105, 109-10.

<sup>84</sup> Michael B Likowsky, *Law, Infrastructure and Human Rights* (Cambridge: Cambridge University Press, 2006), 50.

<sup>85</sup> UN Economic and Social Council, ‘The New International Economic Order and the Promotion of Human Rights—Report on the Right to Adequate Food as a Human Right Submitted by Mr. Asbjørn Eide, Special Rapporteur’ (7 July 1987) UN Doc E.CN.4/Sub.2/1987/23, para 66.

<sup>86</sup> Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (2nd edn, Princeton, New Jersey: Princeton University Press, 1996) 52.

<sup>87</sup> See for example the vision report by the current Special Rapporteur on the Right to Adequate Food, Michael Fakhri: UN Special Rapporteur on the Right to Food, ‘Vision report of the Special Rapporteur on the right to food’ A/HRC/46/33 (24 December 2020).

of IHRL. We will now move on to re-evaluate Sembrando Vida through the lens of subaltern and heterodox approaches to human rights, and, more specifically, with reference to the new declaration on the human rights of peasants: UNDROP.

### C. Sembrando Vida, Human Rights, and the State through the lens of UNDROP and Sub-Altern approaches to Human Rights.

UNDROP is the outcome of a six-year process in the UN Council on Human Rights that was spearheaded by LVC and that included a wide range of other organisations working in the field of agrarian reform.<sup>88</sup> UNDROP was designed and lobbied for by peasant movements themselves, rather than state representatives starting the process.<sup>89</sup> Claeys and Edelman term this process ‘a new kind of people’s diplomacy and an innovative, bottom-up process of building alliances, lobbying, and authoring international law.’<sup>90</sup> The Declaration was adopted by the UN General Assembly on 17 December 2018, with 121 votes in support, 8 against, and 54 abstentions.<sup>91</sup> Many of the states supporting the declaration are from the global South. UNDROP recognises a broad spectrum of rights specific to peasants and people working in rural areas as human rights, including the right to food sovereignty (Art 15.4), ‘the right to land, Article 17), ‘the right to save, use, exchange and sell their farm-saved seed or propagating material’ (Article 19.1); and the right to water for livelihoods (Art 21.2).

By including a human right to ‘food sovereignty’, UNDROP opens the door to novel interpretations of the obligations of states with respect to human rights. Significantly, combined with the recognition of peasants’ rights *to land*, both individually and/or collectively, which includes ‘the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures’, the inclusion of a right to food sovereignty conjures a different constitutional imagination to the Liberal model that underpins dominant legal practices of IHRL. As opposed to the state being a political and legal sovereign that should control its land and territory in order to achieve the maximisation of its resources in order to meet its rights obligations—a state which must also respect private property, according to UDHR<sup>92</sup>—UNDROP conceptualises a rights-structure grounded in an understanding that community management of land and resources is what should enable people to achieve an adequate standard of living. Indeed, contained within the right to an adequate standard of living is the requirement that peasants are ‘facilitated access to the means of production’ as well as ‘a right to engage freely . . . in traditional ways of farming, fishing, livestock rearing and forestry and to develop community-based commercialisation

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<sup>88</sup> Nora McKeon and Gonzalo Berron, ‘Introduction to ‘Reclaiming Democracy from Below: From the Contemporary State Capitalist System to Peoples’ Sovereignty’ (2020) *Globalizations* 17(7): 1241-1264.

<sup>89</sup> Coline Hubert. ‘The United Nations Declaration on the Rights of Peasants: A tool in the struggle for our common future.’ (2019) *Geneva: Cetim*.

<sup>90</sup> Priscilla Claeys & Marc Edelman, ‘The United Nations Declaration on the rights of peasants and other people working in rural areas’ 2(020) *J Peasant Stud.* 2;47(1): 1-68.

<sup>91</sup> UN General Assembly, 73rd Session, 55th Plenary Meeting, (17 December 2018), New York. A /73/PV.55, online: <<https://digitallibrary.un.org/record/3795602>>

<sup>92</sup> UDHR Article 11.

systems'.<sup>93</sup> Here, the connection between access to land and the means of production is seen to be a condition for adequacy, whereas in dominant approaches to human rights, physical and economic 'access' to food is sufficient.<sup>94</sup> As such, UNDROP supports struggles for agrarian reform and the re-transfer of land rights to peasants, particularly in post-colonial contexts characterised by high levels of inequality in land access and ownership.<sup>95</sup> The sovereign's governance and control of its territory and resources is subject to explicit qualifications under the framing advanced under UNDROP, as states are also required to 'take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems'.<sup>96</sup> Customary law, which in many contexts is law developed by communities, as opposed to being produced through the central constitutional apparatus of the state, is placed in a hierarchically superior position to the sovereign's right to freely administer land and resources within its territory for national development objectives.

The framing of the relationship between rights-bearers, peasants and people working in rural areas, and the state, under UNDROP evinces a different conception of freedom and dignity to the dominant interpretation under IHRL. The development of state obligations and conceptions of dignity under IHRL leans heavily on both the example of European Welfare states and the capabilities approach to human development, which associates freedom with the development of individual capabilities to achieve an adequate standard of living.<sup>97</sup> Conversely, the inclusion of a right to food sovereignty in UNDROP indicates that in contexts where peasant and indigenous communities are choosing to govern themselves, and are achieving a standard of living that they consider adequate, state should abstain from trying to actively 'realise' human rights, such as a right to food, through programmatic development initiatives. As Claeys underlines, drawing on Felice, the right to food sovereignty also 'conveys a call for smaller political units within a world society, "the search for a more intuitively plausible scale of community"'. In that sense, it is kin to the right to autonomy or self-government which has been recognized in the International Declaration on the Rights of Indigenous Peoples'.<sup>98</sup> With this inclusion, UNDROP contributes to the development of the 'radical democratic potential in human rights that can be appreciated only by paying attention to the pluriverse of human rights, enacted in many counter-hegemonic cognitive frames'.<sup>99</sup>

Viewed through the lens of UNDROP and political and sub-altern conceptions of human rights, Sembrando Vida attacks the basis for achieving an adequate standard of living that is seen to be the underpinning of dignity and the enjoyment of human rights by seeking to break down community governance systems in Mexico. As our research has shown, while the programme claims to respect and learn from communities and their approaches to environmental governance and conservation, Sembrando Vida outlaws shifting cultivation and

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<sup>93</sup> UNDROP Article 16(1).

<sup>94</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 12: The Right to Adequate Food* (Art. 11 of the Covenant), 12 May 1999, para 6.

<sup>95</sup> Christophe Golay. 'The Right to Land and the UNDROP. How Can We Use the UNDROP to Protect the Right to Land?' (2020) Geneva Academy and International Land Coalition, online: <[https://www.geneva-academy.ch/joomlatools-files/docman-files/Guide%20the%20right%20to%20land%20and%20UNDROP%20\(1\).pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/Guide%20the%20right%20to%20land%20and%20UNDROP%20(1).pdf)>

<sup>96</sup> UNDROP Article 17(3).

<sup>97</sup> Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 2001).

<sup>98</sup> Claeys, *supra* n 8, 849; William. F. Felice, *Taking Suffering Seriously: The Importance of Collective Human Rights* (New York: SUNY Press, 1996).

<sup>99</sup> Balakrishnan Rajagopal, 'Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy' (2006) TWQ 27(5): 767-783, 768.

burning, despite the fact that these systems are central to the traditional agricultural practices of many communities. The programme thus violates the requirement under UNDROP that states ‘eliminate discrimination against the traditional knowledge, practices and technologies of peasants and other people working in rural areas’.<sup>100</sup> Furthermore, the regulations for the programme force participants to follow the lead of technicians and to convert their labour patterns into a standardised model with the result that community systems of food provision (milpas) have been undermined. Hence, the programme violates Article 15(4) of UNDROP which mandates that ‘Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty’.<sup>101</sup> As all of our respondents reported, programme technicians had undue power over which species of trees and plants participants grew on their land. This is in contravention of Article 19(5) of UNDROP, which determines that ‘States shall recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, and to decide on the crops and species that they wish to grow.’<sup>102</sup>

The programme further violates Article 10(1) which requires that the involvement of peasants in the preparation and implementations of policies and programmes that impact their lives, land, and livelihoods should be ‘active’ and ‘free’. In the case of Sembrando Vida, which is a programme conceived by the central institutions of the Mexican state, participants are given a heavy financial incentive to participate in the programme and are required to accept its terms and conditions without any means of modifying them. By implementing regulations and policies that are designed to change the work habits of peasants, and by instituting new governance systems in the territories that undermine community governance systems, the Mexican state further falls foul of the prohibition in Article 10(2) that States shall ‘respect the establishment and growth of strong and independent organizations of peasants and other people working in rural areas’. The requirements in Sembrando Vida that require individual participation for persons in control of 2.5 hectares of land undermines the requirement for States to protect land tenure rights, customary tenure rights, and the natural commons and their related systems of collective use and management under Article 17(3) of UNDROP. Community land ownership and management is protected under the Mexican Constitution, yet the programme undermines community land ownership by promoting the individualisation of ejido properties, which constitutes a regressive measure with regard to UNDROP. As one of our interviewees highlighted, *‘There’s no need for community consensus to join the program, which is what we’ve seen in the majority of the programs. I think all the programs of this government have been individualized.’*

Sembrando Vida is in contravention of the underlying values and conception of dignity that characterises UNDROP, and critical and sub-altern approaches to human rights more broadly. As discussed earlier, the constituencies that participated in the development of UNDROP regard human rights not as claim-rights to be brought by ‘deprived’ constituencies against a sovereign who is assumed to be the legitimate and lawful architect of a national economy. Rather, human rights are conceived of as legal entitlements that prevent states from encroaching on community governance systems, and that empower communities to achieve a standard of living that is commensurate with their own value systems. Significantly, under this framing, human rights must be legal and political tools that can enable a deeper form of emancipation than that which is available under the strictures of Liberal constitutional

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<sup>100</sup> UNDROP Article 26(3).

<sup>101</sup> UNDROP Article 15(4).

<sup>102</sup> UNDROP Article 19(5).

democracies populated by individual property owners. Human rights should empower peoples—not ‘peoples’ as pre-defined by a colonialist International Law, but self-identifying peoples who choose to live together in communities and to live according to a particular set of values—to exercise self-determination, and to ‘determine their political status and freely pursue their economic, social and cultural development’,<sup>103</sup> *even if their determination goes against the broader developmental vision of the nation state.*

It must be highlighted that the text of UNDROP does contain some problematic legacies with regard to the role of the state in economic development. For example, Article 25 of the Declaration states that peasants and other people working in rural areas ‘have the right to adequate training suited to the specific agroecological, sociocultural and economic environments in which they find themselves. Issues covered by training programmes should include, but not be limited to, improving productivity, marketing, and the ability to cope with pests, pathogens, system shocks, the effects of chemicals, climate change and weather-related events’.<sup>104</sup> This framing is ambiguous, as it specifically highlights the need to approaches that are suited to agroecological and sociocultural environments, but it seems to nonetheless position states in a role of steering populations towards greater productivity. Other passages of UNDROP are more explicit, and arguably legitimise precisely the kinds of problematic practices that characterise Sembrando Vida. As Article 27(3) stipulates, ‘States facing high levels of rural poverty and in the absence of employment opportunities in other sectors, States shall take appropriate measures to establish and promote sustainable food systems that are sufficiently labour-intensive to contribute to the creation of decent employment.’<sup>105</sup> These passages of UNDROP, which legitimise the false agroecological approach of Sembrando Vida, speak to a phenomenon that some of us have highlighted in earlier research: a situation in which agroecology is being co-opted and depoliticised by institutional organisations. We have suggested that there is a risk that ‘the old messianic discourse of rural development, to save the poor, hungry, malnourished, and underdeveloped from their own conditions,’ is likely to remain in place and at work in institutional systems at the national and international levels, except with a new remedy ‘agroecological programmes’, taking the places of national programmes geared towards achieving ‘food security’.<sup>106</sup> The provision of agroecological services could ‘be a new commodity offered by experts’, some of us have cautioned, which ‘could create a new system of dependencies, colonize ongoing autonomous processes’.<sup>107</sup>

As Salomon underscores, there is a further paradox in the framing of UNDROP in terms of how it requires that states ‘elaborate, interpret and apply relevant international agreements and standards to which they are a party in a manner consistent with their human rights obligations as applicable to peasants and other people working in rural areas’.<sup>108</sup> As she correctly points out, this requirement means that ‘the legal regimes that constitute and sustain global capitalism are retained’ in UNDROP...‘indeed they are reinforced in the Declaration. International law that has served peasants so poorly is taken as a given and validated. Here, the Peasants’ Declaration anchors its demands to the continued existence of the regimes against which they

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<sup>103</sup> Common Article I, ICCPR and ICESCR.

<sup>104</sup> UNDROP Article 25 (1).

<sup>105</sup> UNDROP Article 13(4).

<sup>106</sup> Omar Felipe Giraldo & Peter M. Rosset, ‘Emancipatory agroecologies: social and political principles’ (2022) *J of Peasant Stud.*, 1.

<sup>107</sup> Peter M. Rosset and Lia Pinheiro Barbosa, ‘Peasant autonomy: The necessary debate in Latin America’ (2021) *Interface: A Journal on Social Movements* 13.1, 46–80.

<sup>108</sup> Margot Salomon, ‘The radical ideation of peasants, the ‘pseudo-radicalism’ of international human rights law, and the revolutionary lawyer’ (2020) *LRIL* 8(3) 425–456, 438 (citing Article 2(4) UNDROP).



struggle'.<sup>109</sup> It is acknowledged by critical analysts that the language and framework surrounding some of the rights 'is weaker than desired in some cases',<sup>110</sup> and that the text of UNDROP 'was made to follow the structure of the 2007 UN Declaration on the Rights of Indigenous Peoples and underwent a series of revisions to be closer to 'UN language'.'<sup>111</sup> Nevertheless, the elaboration of these new rights is seen to represent critical victory for social movements.<sup>112</sup> Though UNDROP does contain these contradictions, Golay and Bessa, discussing the opposition between intellectual property rights and peasants' rights to seed, argue that UNDROP demonstrates a hierarchy of norms, with article 2.4 (States shall elaborate, interpret and apply relevant international agreements and standards to which they are a party in a manner consistent with their human rights obligations as applicable to peasants and other people working in rural areas), and article 19.8 (States shall ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants and other people working in rural areas), indicating that human rights should be given primacy over property rights.<sup>113</sup> Significantly, the recognition of a human right to food sovereignty challenges the paradigm of private property ownership and labour relations upon which the global economy is built, and goes much further than the right to adequate food in terms of requiring that food systems are based on equitable social and political relations. As LVC has stressed, food sovereignty 'ensures that the rights to use and manage our lands, territories, waters, seeds, livestock and biodiversity are in the hands of those of us who produce food. Food sovereignty implies new social relations free of oppression and inequality between men and women, peoples, racial groups, social classes and generations'.<sup>114</sup> Indeed, as Salomon also argues, the fact that UNDROP reinstates collective life 'as a matter of international human rights law is a subversive act', and just because, ultimately, UNDROP may still rely 'on the capitalist "authoritarian" state...should not blind us to the slow revolution that can come from...the auto-marshalling of dissidence, expressed in the Declaration through the radical instrument of communality'.<sup>115</sup>

#### IV. A Concluding Reflection: State Obligations under UNDROP going forwards

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<sup>109</sup> Ibid.

<sup>110</sup> Sandwell et al, supra n 10, 22.

<sup>111</sup> Claey's, supra n 8, 853, drawing on C. Golay and M. Özden, *The Right of Peoples to Self-Determination and to Permanent Sovereignty over their Natural Resources Seen from a Human Rights Perspective*. Geneva: Centre Europe Tiers-Monde (CETIM), (2010), online: < <https://www.cetim.ch/product/the-right-of-peoples-to-self-determination-and-to-permanent-sovereignty-over-their-natural-resources-seen-from-a-human-rights-perspective/>>

<sup>112</sup> Sandwell et al, supra n 10, 22.

<sup>113</sup> Christophe Golay and Adriana Bessa, 'The Right to Seeds in Europe. The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas and the Protection of the Right to Seeds in Europe' (2019) Academy Briefing No. 15, Geneva Academy of International Humanitarian Law and Human Rights, 2019, online: <<https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Right%20to%20Seeds%20in%20Europe.pdf>>

<sup>114</sup> La Via Campesina, Nyéléni Declaration 2007, online: < <https://nyeleni.org/IMG/pdf/DeclNyeleni-en.pdf>> (The Nyéléni Declaration emerged out of the World Forum for Food Sovereignty, which was held in Nyéléni, Mali in February 2007 and was attended by 500 delegates from five continents. For more information see Food and Agriculture Organization of the United Nations, 'Declaration of Nyéléni', online: < <https://www.fao.org/agroecology/database/detail/en/c/1253617/#:~:>>

<sup>115</sup> Salomon, supra n 101, 449.

In this article, we have demonstrated that contrary to its widespread portrayal and presentation, Sembrando Vida is not a human rights-respecting development programme, and it should not be taken as a model for rural development in Latin America, or elsewhere in the world. Looking through the lens of UNDROP and sub-altern approaches to human rights, the Mexican government is systematically violating the human rights of peasants and people working in rural areas by rolling out this ‘social and environmental’ development programme.

We want to conclude with a short reflection on what the obligations of states ought to be with respect to peasants in light of these findings. As Claeys has noted, drawing on Stammers,<sup>116</sup> whilst the right to food is premised on a ‘highly state centric’ approach, ‘definitions of the right to food sovereignty leave duty-bearers most often unspecified’.<sup>117</sup> The food sovereignty movement has an ambivalent relationship to the state, nevertheless, many food sovereignty activists and scholars suggest that the transition to a society in which people enjoy a right to food sovereignty will probably involve some degree of engagement with and cooperation with the state. For Schiavoni, ‘food sovereignty construction as neither state-driven nor society-driven alone, but rather as a product of the interaction between and among diverse state and societal actors.’<sup>118</sup> Others remain sceptical.<sup>119</sup> In response to a question posed at a significant gathering of leading groups and figures in the food sovereignty movement, ‘Can the state be encouraged to contribute to the transition, or do we need to cut off the tentacles that it extends into society like those of an octopus?’, McKeon and Berron report that views were polarised: ‘For some participants the two terms are radically opposed. “We describe democracy to be non-state. Self-governance without the state is democracy.” Others argued that ‘it’s representative democracy that “is a farce”... “We are trying to create states that are pluricultural and horizontal, with various dynamics of assemblies in which every part of the population is consulted.”’<sup>120</sup> In light of these tensions, it is very difficult to advance a conception of how states should act with regard to respecting, protecting, or realising the rights of peasants that will be acceptable to all, as many constituencies would regard involving the state in the project of achieving food sovereignty as a contradiction in terms. Nevertheless, given that LVC and the food sovereignty movement has sought to engage with IHRL and the UN system to advance their objectives, perhaps it may nonetheless be useful to present a thesis on how the obligations of states with regard to the rights of peasants under UNDROP should be framed, were they to receive the same kind of interpretative treatment that has been applied to other human rights via the system of the General Comments. We end this article with one small proposal. If human rights are to be understood not only as individual claim rights against a sovereign that masters and dominates its territory in order to produce a constant improvement in living standards, but as set of legal structures designed to enable the empowerment of communities to create their own systems of food provision, and to live in accordance with their own values, one key finding emerges from this study: In contexts where the will is expressed by communities to erect their own systems of governance and to develop their own systems of food production, and where developments such as recognised systems of community land tenure, such as those in Mexico, clearly enable such practice, it is evident that the state should not be actively trying to ‘realise’ the human rights of peasants and other constituencies through top-down development programmes. Governments should respect local democracy and provide the resources that are

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<sup>116</sup> Neil Stammers, *Human Rights and Social Movements* (London: Pluto Press, 2009).

<sup>117</sup> Claeys, *supra* n 8, 850.

<sup>118</sup> Christina Schiavoni, ‘The contested terrain of food sovereignty construction: toward a historical, relational and interactive approach’ (2017) *J Peasant Stud* 44 (1): 1–32.

<sup>119</sup> See for example Rosset and Pinheiro Barbosa, *supra* n 97.

<sup>120</sup> McKeon and Berron, *supra* n 82.

requested by communities to achieve their understanding of a meaningful and dignified life, affording them the freedom to ‘determine their political status and freely pursue their economic, social and cultural development’.<sup>121</sup>

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<sup>121</sup> Article 1 ICCPR and ICESCR.