**Second session of the Working Group on the rights of peasants and other people working in rural areas: Feb 2-6, 2015.**

**Panel II**

**Rights of Peasants and other People Working in Rural Areas in other international instruments and gaps**

**Presentation – Sue Longley, IUF**

Madame Chair, ladies and gentleman, thank you very much for the invitation to make the presentation. I want to talk about a couple of issues:

Does the declaration adequately address the rights of rural workers; where are those rights defined/contained and what gaps are there`?

I am going to focus on the instruments of the International Labour Organisation and in particular those covering rural workers.

I want to refer you to the Geneva Academy briefing that Christophe Golay talked about yesterday – it has an excellent summary of the ILO conventions covering rural workers - especially in agriculture, plantations and fisheries.

**A quick introduction to the ILO and its procedures:**

ILO is the only tripartite agency in the UN system – representatives of governments, workers’ organizations and employers’ organizations – all of whom having voting rights.

The ILO has so far developed 189 Conventions and 203 Recommendations plus several protocols and other instruments like code of practice which help give effect to Conventions and of course these are negotiated by tripartite constituents

When a Government decides to ratify a Convention, it has to be enacted into national law.

The ILO has 8 core conventions covering the fundamental rights at work:

* F[reedom of association and the effective recognition of the right to collective bargaining](http://www.ilo.org/declaration/principles/freedomofassociation/lang--en/index.htm)
* [Elimination of all forms of forced or compulsory labour](http://www.ilo.org/declaration/principles/eliminationofchildlabour/lang--en/index.htm)
* [Effective abolition of child labour](http://www.ilo.org/declaration/principles/abolitionofchildlabour/lang--en/index.htm)
* [Elimination of discrimination in respect of employment and occupation](http://www.ilo.org/declaration/principles/eliminationofdiscrimination/lang--en/index.htm)

In 1988 these Conventions were brought together in a document called the Declaration on fundamental principles and rights at work. All member states are supposed to respect these conventions even if they have not been ratified.

So these rights cover all workers. However very early in its existence, the ILO recognised the particular challenges facing rural workers, especially on freedom of association for agricultural workers and adopted in 1921 **The Right of Association (Agriculture) Convention (No. 11).**

It has 1 main article which states

“Each Member of the International Labour Organisation which ratifies this Convention undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.”

**And for me this Convention got straight to the heart of the matter - that in 1921 and still today - there is legalized discrimination against rural workers and one of the main form of discrimination is that agricultural workers do not have the same protection from labour law as other workers.**

**The other astonishing fact is that Convention 11 has been ratified by 122 countries – a high ratification rate – yet this discrimination still exists.**

Convention 11 was the first in a series of instruments developed and adopted by the ILO to tackle the rights and decent work deficits of rural workers, again with a specific focus on rural workers.

The Ambassador mentioned them yesterday in her opening remarks:

* Wage Fixing machinery (Agriculture) Convention (No. 99) and Recommendation No. 89 (1951);
* Plantations Convention (No.110) and Recommendation No.110 (1958); Protocol of 1982 to the Plantations Convention (No.110);
* Labour Inspection (Agriculture) Convention (No.129) (1969);
* Rural Workers’ Organisations Convention (No. 141) and Recommendation No. 149 (1975);
* Indigenous and Tribal Peoples Convention (No. 169) and Recommendation No. 104 (1989);
* Safety and Health in Agriculture Convention (No.184) and Recommendation No. 192 (2001);
* Work in Fishing Convention (No. 188) and Recommendation No. 199 (2007).

I want to look at just a few of those:

##### Convention 141 Rural Workers’ Organisations Convention (No. 141) and Recommendation No. 149 (1975)

##### This repeats the importance of the right to organise for rural workers but then goes on in Article 5 to put obligations on member states to:

* play their role in economic and social development, and adopt and carry out a policy of active encouragement to rural workers organisations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organisations and their members as may exist.
* Each Member which ratifies this Convention shall ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organisations.

Moving on to **the Plantations Convention (No.110) and Recommendation No.110 (1958); Protocol of 1982 to the Plantations Convention (No.110);**

## This gives detailed guidance on employment contracts, minimum wages, holidays with pay, weekly rest, maternity protection, workmen’s compensation, right to organise and collective bargaining, labour inspection, housing and medical care.

## It also contains requirements on the

## ENGAGEMENT AND RECRUITMENT OF MIGRANT WORKERS

A number of interventions yesterday recognized the vulnerability of rural migrant workers and I think we do need to review the Declaration text to ensure existing rights for migrant workers are adequately reflected.

The final convention I want to look at is

**Safety and Health in Agriculture Convention (No.184) and Recommendation No. 192 (2001); ratified by 15 countries.**

And again a number of people spoke yesterday about the health and safety issues faced by both peasants and rural workers, in particular from their exposure to pesticides and other chemicals.

As I mentioned in my opening statement, ILO statistics show that agriculture is alongside mining and construction one of the most dangerous industries to work in. The ILO has Conventions dealing with OHS issues for all workers and conventions dealing with chemical safety but has also developed specific conventions for those sectors with poor health and safety. It already had conventions for safety in both mining (1988) and construction (1995) and in 2001 Convention 184 on safety and health in agriculture was adopted. This gives agricultural workers the same rights as other workers to a safe and heathy workplace.

It covers the requirement for states to set up national health and safety systems for agriculture, machinery safety, sound management of chemicals, how to ensure OHS for young workers, women workers and seasonal workers. It also makes the link between long working hours and the increased risk of accidents.

C184 is one of my favourites – but I am partisan – because I was secretary to the workers group in the negotiations – and let me tell you a little anecdote.

In the discussion on welfare provisions that should be provided, we the Workers Group felt strongly that at the dawn of the new millennium, agricultural workers should have access to toilets. But employers and some governments objected and we had to go to a record vote. Finally after two years of negotiations we got a clause in the Recommendation 192 that states:

“Separate sanitary and washing facilities, or separate use thereof, for men and women workers;”

This brings me to my conclusions and please keep this anecdote in mind..

I think the Declaration adequately reflects the rights for rural workers that are contained in existing ILO Conventions. In particular the Draft Declaration Articles:

**Article 11 – Freedom of association**

**Article 15 – Right to work, and**

**ARTICLE 16 – RIGHT TO SAFETY AND HEALTH AT WORK**

I particularly welcome the paragraph on the right to work free from harassment, in particular sexual harassment. As I mentioned yesterday, for women working on plantations this is a major issue.

*The Preamble is also very useful in particular the paragraphs on:*

*Affirming* that peasants and other people working in rural areas are equal to all other people and, in the exercise of their rights, should be free from any form of discrimination, including discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, wealth, birth or other status,

*Recalling* that in order to address the labour protection gaps and decent work deficits faced by peasants and other people working in rural areas, the International Labour Organization has developed an extensive body of Conventions and Recommendations[[1]](#footnote-1) and that these standards represent the minimum rights to which these workers are entitled;

*Affirming* that freedom of association is a key enabling right to ensure that peasants and other people working in rural areas can join together to access and freely exercise the rights contained in this Declaration,

**So looking just at the instruments of the ILO** - I can say that rights of workers rights contained in the Declaration are not new rights. They are rights that exist in international law.

Are their gaps in the rights? Are vulnerable workers still excluded? I would say the main gap is around migrant workers – making sure that rights that apply to national workers also apply to them and that they can exercise these rights.

The ILO has a new Recommendation (202, 2012) on social protection floors and the importance of social protection is recognized in the draft Declaration. However I think the Declaration needs to address more clearly the right to social security of rural workers.

So I would say that there are two main problems:
First, there is an extensive body of rights detailed in ILO Convention but some governments do not include them in national law;

Second, even when the law is there, rural workers cannot for a variety of reasons – isolation, repression etc - access those rights.

I was struck yesterday by a comment that Geneviève Savigny made in the panel yesterday – she said that in some countries the word “peasant “ was a pejorative term and asked why that was.

I would ask another question – why do governments ignore international law and discriminate against rural workers by only giving them lower standards of protection under labour law – this can be from refusing them the coverage of labour law to having lower standards of protection – agricultural workers for example are expected to work longer hours, to lift heavier loads, to not have access to toilets……

It seems to me these two questions highlight a key role for the Declaration, we need a document that brings together the rights of peasants and other people working in rural areas, that becomes a champion for them and a rallying point to challenge and end the persistent discrimination against rural communities.

Thank you.

**APPENDIX – REFERENCED DRAFT declaration TEXT**

 **Article 11 – Freedom of association**

1. Peasants and other people working in rural areas have the same rights of association and combination as industrial and other formal sector workers and should not be excluded from labour legislation or other relevant legal protections.

2. Peasants and other people working in rural areas have the right to form and join organisations, trade unions, cooperatives, or any other organisation or association of their own choosing, for the protection of their interests. Peasant and other people working in rural areas' organisations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.

3. States should adopt and carry out a policy of active encouragement to these organisations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against such organisations and their members as may exist.

**Article 15 – Right to work**

1. Peasants and other people in rural areas have the right to work, which includes the right to freely choose the way they gain their living.

2. States shall create an enabling environment with opportunity for work and that provides remuneration allowing for an adequate standard of living for peasants and other people working in rural areas and their families. In countries facing important levels of rural poverty and in the absence of employment opportunities in other sectors, States shall establish and promote food systems that are sufficiently labour-intensive to contribute to employment creation.

3. Taking into account the specific characteristics of peasant agriculture and small-scale fisheries, States shall monitor compliance with labour legislation by devoting appropriate resources for an effective functioning of labour inspectorates in rural areas.

4. States shall, in consultation and cooperation with peasants and other people working in rural areas and their representative organisations, take appropriate measures to protect these people from economic exploitation. No one shall be required to perform forced, bounded or compulsory labour.

**ARTICLE 16 – RIGHT TO SAFETY AND HEALTH AT WORK**

1. Peasants and other people working in rural areas, irrespective of whether they are temporary, seasonal or migrant workers regardless of their legal status, have the right to work in safe and healthy conditions, to participate in the application and review of safety and health measures, to select safety and health representatives and representatives in safety and health committees, to receive adequate and appropriate protective clothing and equipment and health and safety training and to remove themselves from danger resulting from their work activity when they reasonably believe that there is an imminent and serious risk to their safety and health.

2. Peasants and other people working in rural areas have the right to work free from harassment, in particular sexual harassment.

3. States shall take appropriate measures to protect these rights, and in particular:

(a) designate the competent authority responsible for the implementation of the policy and for the enforcement of national laws and regulations on occupational safety and health in agriculture, agro-industry, and fisheries;

 (b) establish mechanisms of inter-sectoral coordination among relevant authorities and bodies for the agricultural sector and define their functions and responsibilities, taking into account their complementarity and national conditions and practices.

(c) provide for corrective measures and appropriate penalties in accordance with national laws and regulations, including, where appropriate, the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of peasants and other people working in rural areas , until the conditions giving rise to the suspension or restriction have been corrected;

(d) establish adequate and appropriate systems of inspection for rural workplaces and provide them with adequate means.

*Preamble*

*Affirming* that peasants and other people working in rural areas are equal to all other people and, in the exercise of their rights, should be free from any form of discrimination, including discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, wealth, birth or other status,

*Recalling* that in order to address the labour protection gaps and decent work deficits faced by peasants and other people working in rural areas, the International Labour Organization has developed an extensive body of Conventions and Recommendations[[2]](#footnote-2) and that these standards represent the minimum rights to which these workers are entitled;

*Affirming* that freedom of association is a key enabling right to ensure that peasants and other people working in rural areas can join together to access and freely exercise the rights contained in this Declaration,

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)