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## Rurality as an Intersecting Axis of Inequality in the Work of the U.N. Treaty Bodies

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# Rurality as an Intersecting Axis of Inequality in the Work of the U.N. Treaty Bodies

Amanda Lyons\*

## *Abstract*

*Rurality intersects with other identities, power dynamics, and structural inequalities—including those related to gender, race, disability, and age—to create unique patterns of human rights deprivations, violations, and challenges in rural spaces. Therefore, accurately assessing human rights and duties in rural spaces requires attention to the dynamics of rurality in a particular context, the unique nature of diverse rural identities and livelihoods, the systemic forces operating in and on those spaces, and the intersections with other forms of structural discrimination and inequality.*

*Although much of the work of the U.N. treaty bodies has in fact addressed human rights situations in rural areas, the role of rurality as an intersecting axis of structural inequality in those cases has not been systematized. There have been important advances related to rurality, intersectionality, and human rights, but these remain largely invisible to researchers and advocates and from one human rights body to another. Without this crosscutting look at rurality, biases and assumptions remain hidden and unchallenged.*

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*This Article addresses that gap by analyzing the treatment of rurality in two U.N. human rights treaty bodies: the Human Rights Committee and the Committee on Economic, Social, and Cultural Rights. The aim is to contribute to further engagement with the role of rurality and spatial justice in intersectional approaches to human rights research, policy, and advocacy. The research documents several trends, including (i) the important impact that global agrarian movements have had in achieving recognition of rural difference and rural-specific human rights claims beyond merely measuring urban-rural disparities; (ii) that rurality is most frequently acknowledged in connection with the rights of women, reflecting the sustained work of women's rights advocates to showcase that intersection, among other dynamics; and (iii) that, in practice and with very few exceptions, rurality is only acknowledged or named in the assessment of countries in the Global South.*

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## INTRODUCTION

Rurality overlaps with other identities, statuses, and conditions to create unique experiences and circumstances.<sup>1</sup> Understanding rural identities and livelihoods, and the operation of structural inequalities on them, is necessary for accurately assessing human rights and duties in rural spaces and advancing effective responses to systemic violations, abuses, and deprivations. Increasingly, work in the social sciences and rural studies has theorized the intersections of rurality with gender,<sup>2</sup> disability,<sup>3</sup> race,<sup>4</sup> and age.<sup>5</sup>

Yet rurality remains largely underappreciated in the international human rights system as an intersecting axis of inequality related to power, choices, and structural injustice.<sup>6</sup> In

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1. See Uchendu Eugene Chigbu, *Rurality as a Choice: Towards Ruralising Rural Areas in Sub-Saharan African Countries*, 30 DEV. S. AFR. 812, 812 (2013).

2. See generally, e.g., LIA BRYANT & BARBARA PINI, GENDER AND RURALITY (2011); Luke A. Boso, *Urban Bias, Rural Sexual Minorities, and the Courts*, 60 UCLA L. REV. 562 (2013).

3. See generally, e.g., DISABILITY AND RURALITY: IDENTITY, GENDER AND BELONGING (Karen Soldatic & Kelley Johnson eds., 2017).

4. See generally, e.g., RACE AND RURALITY IN THE GLOBAL ECONOMY (Michaeline A. Crichlow et al. eds., 2018).

5. See generally, e.g., Shane Doheny & Paul Milbourne, *Community, Rurality, and Older People: Critically Comparing Older People's Experiences Across Different Rural Communities*, 50 J. RURAL STUD. 129 (2017).

6. Meghan Campbell has been a leading voice on this question and gap, particularly in relation to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW). See Meghan Campbell, *The Distance Between Us: Sexual and Reproductive Health Rights of Rural Women and Girls*, in INTERSECTIONALITY AND HUMAN RIGHTS LAW 147, 155–69 (Shreya Atrey & Peter Dunne eds., 2020) [hereinafter Campbell, *The Distance Between Us*]; see also Meghan Campbell, *CEDAW and Women's Intersecting Identities: A Pioneering New Approach to Intersectional Discrimination*, 11 DIREITO GV L. REV. 479, 487–88 (2015) (describing CEDAW's focus on discrimination against women that “intersects with other aspects of their identity or experiences,” such as rurality, “and results in a denial of human rights”).

recent years, global agrarian movements have advanced novel, rural-specific normative developments in the international human rights system.<sup>7</sup> A key contribution from this advocacy has been to shift the frame from seeing rural spaces as a fixed setting or backdrop of some human rights violations and deprivations to a space understood to be dynamically shaped by policy choices—interventions and omissions—that implicate human rights obligations.<sup>8</sup> Beyond that, the rural social movements have offered important elements to expand the human rights frame to also consider rurality as a unique and relevant vector in articulating people’s identities, ways of life, culture, social innovations, and human rights claims.<sup>9</sup>

This Article aims to foster a greater engagement with the role of rurality and spatial justice in intersectional approaches to human rights research, policy, and advocacy.<sup>10</sup> Part I considers rurality as an axis of inequality, drawing on the human rights framing advanced by the global rural movements, as well as scholars in the field of rurality and the law.<sup>11</sup> This Part also briefly reviews the areas in which rurality has been developed most intentionally in the international human rights system—namely in soft law initiatives, the work of the special procedures of the Human Rights Council, and the work of the

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7. See generally Amanda Lyons & Ana María Suárez Franco, *A Critical Peasants’ Rights Perspective for Human Rights and the Environment: Leveraging the UN Declaration on the Rights of Peasants*, in A RESEARCH AGENDA FOR HUMAN RIGHTS AND THE ENVIRONMENT (forthcoming 2022) (on file with author).

8. See generally *id.*

9. See KATIE SANDWELL ET AL., TRANSNAT’L INST., EMANCIPATORY RURAL POL. INITIATIVE, & FIAN INT’L, A VIEW FROM THE COUNTRYSIDE: CONTESTING AND CONSTRUCTING HUMAN RIGHTS IN AN AGE OF CONVERGING CRISES 14–15 (2019) (explaining that the unique challenges facing rural communities “can shape[] the way that human rights are needed, perceived, and used”).

10. On intersectionality and human rights, see generally JOHANNA BOND, GLOBAL INTERSECTIONALITY AND CONTEMPORARY HUMAN RIGHTS (2021), and INTERSECTIONALITY AND HUMAN RIGHTS LAW (Shreya Atrey & Peter Dunne eds., 2020).

11. See *infra* Part I.A.

Committee on the Elimination of Discrimination Against Women (“CEDAW Committee”).<sup>12</sup>

Parts II and III analyze how two United Nations human rights bodies—the Human Rights Committee (HRC) and the Committee on Economic, Social, and Cultural Rights (CESCR)—have engaged with rurality and intersectionality in their work.<sup>13</sup> These bodies are of particular importance given their mandate to oversee the two universal human rights treaties—the International Covenant on Civil and Political Rights (ICCPR)<sup>14</sup> and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>15</sup>—and their Optional Protocols,<sup>16</sup> which together with the Universal Declaration on Human Rights<sup>17</sup> are known collectively as the International Bill of Rights.<sup>18</sup> Adopted in 1966, neither the ICCPR nor the ICESCR explicitly acknowledges rurality, geography, or rural-urban difference.<sup>19</sup> Through their periodic reviews of states parties, however, the development of General Comments, and the jurisprudence in the individual complaint procedures, the HRC and the CESCR have made important advances in terms of acknowledging the connections between rurality, spatial justice, and other systemic inequalities. That body of work increasingly reflects the myriad ways that rurality intersects with other

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12. See *infra* Part I.B.

13. See *infra* Parts II–III.

14. International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, T.I.A.S. No. 92-908, 999 U.N.T.S. 171 [hereinafter ICCPR].

15. International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

16. Optional Protocol to the International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 302; Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty, *adopted* Dec. 15, 1989, 1642 U.N.T.S. 414; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 10, 2008, 2922 U.N.T.S. 29.

17. G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR].

18. U.N. OFF. HIGH COMM’R FOR HUM. RTS., FACT SHEET NO. 2 (REV. 1): THE INTERNATIONAL BILL OF HUMAN RIGHTS 1 (1996), <https://perma.cc/ASX3-UBYP> (PDF).

19. See *generally* ICCPR, *supra* note 14; ICESCR, *supra* note 15.

identities and power dynamics to create particular human rights deprivations, violations, and challenges.

Yet the role of rurality in the work of these two U.N. bodies as related to substantive equality has never been systematized and evaluated. This Article aims to identify these trends, normative developments, and shortcomings to make them more visible and accessible to researchers, policymakers, and advocates in the hopes of fostering more engagement with questions of spatial justice and rurality as an intersecting axis of inequality.

## I. RURALITY AS AN INTERSECTING AXIS OF INEQUALITY

### A. *Defining Rurality and Spatial Justice*

Numerous fields and approaches inform perspectives on rurality in human rights research, policy, and practice. Since the early 1990s, a diverse but organized global rural movement, lead most visibly by La Via Campesina, has advanced a rurally-informed human rights frame both to ensure full inclusion of rural communities into the existing human rights norms and to push those norms to more fully capture the reality and claims of rural communities.<sup>20</sup> These influences come from the development field, rural studies, agrarian and peasant studies, critical geography, and third-world approaches to international law.<sup>21</sup> Scholars working under the banner of rural scholarship adopt a wide range of definitions and approaches to rurality.<sup>22</sup> There is no definition of rural in the international human rights system. It is largely understood as the opposite or alternative to urban or equated with remote areas or deprived

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20. Lyons & Suárez Franco, *supra* note 7 (manuscript at 5–7). See generally Priscilla Claeys, *The Right to Land and Territory: New Human Right and Collective Action Frame*, in PROPERTY RIGHTS FROM BELOW: COMMODIFICATION AND THE COUNTER-MOVEMENT 131 (Olivier De Schutter & Balakrishnan Rajagopal eds., 2019).

21. See Peter Somerville et al., *Interrogating Rural Coherence*, in INTERPRETING RURALITY: MULTIDISCIPLINARY APPROACHES 278 (Gary Bosworth & Peter Somerville eds., 2020).

22. *Id.*

urban areas.<sup>23</sup> In the global setting and even many national contexts, rural is equated with underdeveloped.<sup>24</sup>

While not always discussed as such, urban bias is often assumed in the international human rights project.<sup>25</sup> Professor Makau Mutua touches on the urban-rural dichotomy and power differential in his seminal piece on the “savages,” “victims,” and “saviors” of the international human rights project.<sup>26</sup> The saviors are traditionally “[b]ased in the capitals of the powerful Western states,” with “mostly well-educated” staffs who are “usually trained in the law, middle-class, and white.”<sup>27</sup> In terms of the victims,

[m]any are uneducated, destitute, old and infirm, young, poorly clad, and/or hungry. Many are peasants, the rural and urban poor, marginalized ethnic groups and nationalities, and lower castes, whose very being is a state of divorce from

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23. See Kelsey Dayle John & Derek R. Ford, *The Rural is Nowhere: Bringing Indigeneity and Urbanism into Educational Research*, in FORGOTTEN PLACES: CRITICAL STUDIES IN RURAL EDUCATION 3, 3–5 (William M. Reynolds ed., 2017); see also *infra* Part III.

24. See, e.g., Lisa Pruitt, *Human Rights and Development for India's Rural Remnant: A Capabilities-Based Assessment*, 44 U.C. DAVIS L. REV. 803, 810 n.27 (2011); Lisa Pruitt, *Deconstructing CEDAW's Article 14: Naming and Explaining Rural Difference*, 17 WM. & MARY J. WOMEN & L. 347, 353 (2011) [hereinafter Pruitt, *Deconstructing CEDAW's Article 14*] (“Nowhere does CEDAW define ‘rural,’ yet the term is in many ways synonymous with ‘undeveloped,’ and at least one nation . . . made this link explicit during the Convention’s drafting.” (citations omitted)).

25. See Christof Heyns & Frans Viljoen, *The Impact of the United Nations Human Rights Treaties on the Domestic Level*, 23 HUM. RTS. Q. 483, 522 (2001) (explaining that one limiting factor on the effectiveness of the UN human rights treaty system is the perception that “[i]nstitutions dealing with human rights on the international level often have an urban bias and do not reach inhabitants in rural areas, where the need is often the greatest”); see also Balakrishnan Rajagopal, *Pro-Human Rights but Anti-Poor?: A Critical Evaluation of the Indian Supreme Court from a Social Movement Perspective*, 18 HUM. RTS. REV. 157, 159–64 (2007) (highlighting urban bias in the Supreme Court of India, including an example where the court espoused the “notion that rural and tribal livelihoods are inferior and bound to be displaced through urbanization and modernization”).

26. See generally Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT’L L.J. 201 (2001).

27. *Id.* at 241 (citation omitted).



civilization and a large distance from modernity. Many are women and children twice victimized because of their gender and age . . . .<sup>28</sup>

The uncritical conflation of the descriptor “rural” as devoid of any meaning other than nonurban and undeveloped facilitates predatory development models that impose urban-normative goals and demands on rural communities without interrogating development models that cause or permit the extinction of rural communities and livelihoods.<sup>29</sup> While urbanization and cities are critical themes for the future of human rights,<sup>30</sup> the situation and trends in rural spaces and identities must not be ignored.<sup>31</sup> The concept of “ruralization” has been identified as the effort to advance rural-centric development.<sup>32</sup>

Rural spaces and identities are not homogenous. The FoodFirst Information and Action Network (FIAN), a leading voice in the critical rural-based perspective on human rights,<sup>33</sup> speaks of a kaleidoscope of rural identities and relationships,

28. *Id.* at 229 (citation omitted).

29. See Thomas Forster & Emily Mattheisen, *Territorial Food System: Protecting the Rural and Localizing Human Rights Accountability*, 2016 RIGHT TO FOOD AND NUTRITION WATCH 38, 38 (describing a “one-sided agenda” informed by urban bias that “leans towards a vision of urbanization where rural areas are void of smallholders and rural communities, as they become incorporated into a mechanized, ‘transformative,’ profit-seeking, and extractive approach to rural resources as faceless commodities”).

30. See Thijs van Lindert & Doutje Lettinga, STRATEGIC STUD. PROJECT, *Introduction to THE FUTURE OF HUMAN RIGHTS IN AN URBAN WORLD: EXPLORING OPPORTUNITIES, THREATS AND CHALLENGES* 7, 8 (Thijs van Lindert & Doutje Lettinga eds., 2014) (collecting “critical essays on cities and human rights” with the aim of “reinvigorat[ing] a necessary debate that should help put human rights (back) on the urban agenda and make human rights practitioners (re)discover cities as important targets”).

31. See Ann Eisenberg, *Distributive Justice and Rural America*, 61 B.C. L. REV. 189, 198 (2020).

32. See Uchendu Eugene Chigbu, *Ruralisation: A Tool for Rural Transformation*, 25 DEV. PRAC. 1067, 1069 (2015) (defining ruralization as “the changing lifestyle toward functional rurality; and effective and efficient rural conditions . . . resulting from human socio-spatial behaviours, migration, and population dynamics”).

33. See Lyons & Suárez Franco, *supra* note 7 (manuscript at 7–9).

with “diverse and fluid rights holders in the rural world: Indigenous Peoples, peasants, pastoralists, artisanal fishers, and forest dwellers.”<sup>34</sup> There are, of course, privileged rural voices and scenarios of rural power. Increasingly, with climate change and the COVID-19 pandemic, there are trends of rural gentrification.<sup>35</sup>

Despite the diversity and heterogeneity of identities, rurality can be a useful axis across contexts globally. Just as structural inequalities and domination are frequently gendered and racialized, they can also be “geographically differentiated” along an exaggerated urban-rural dichotomy.<sup>36</sup> Thus consideration of rurality, however it manifests in given contexts, is potentially useful for identifying “structurally determined rural-based disadvantage.”<sup>37</sup> The term “ruralism” has been used to describe “a pervasive form of discrimination—largely unrecognized, unacknowledged, and unexamined—and one often impacting most harshly those individuals who already are subject to other forms of discrimination based on gender, class, and race.”<sup>38</sup>

Spatial justice, then, is an effort to advance frames and solutions that identify and transform structural inequality related to space and geography. The distributive justice lens, developed by Professor Ann Eisenberg specifically for the U.S.

34. ROSA ANGÉLICA CASTAÑEDA FLORES, FILLING IN THE GAPS IN HUMAN RIGHTS PROTECTION OF A DIVERSE RURAL WORLD 5 (2020).

35. See Mat Payne, Note, *When Nowhere Becomes Somewhere: Gentrification in Rural Communities and How Proactive Community Planning and a Progressive Property Valuation System Can Stem the Tide*, 107 KY. L.J. 727, 728 (2019); see also *Rural Gentrification*, in A DICTIONARY OF HUMAN GEOGRAPHY (Alisdair Rogers et al. eds., 2013).

36. Ashley Bohrer, *Intersectionality and Marxism: A Critical Historiography*, 26 HIST. MATERIALISM 46, 67 (2018) (quoting María Lugones, *Heterosexualism and the Colonial/Modern Gender System*, 22 HYPATIA 186, 191 (2007)).

37. Alexandra Gartrell & Elizabeth Anne Hoban, *Locked in Space: Rurality and the Politics of Location*, in DISABILITY IN THE GLOBAL SOUTH: THE CRITICAL HANDBOOK 337, 339 (Shaun Grech & Karen Soldatic eds., 2016).

38. Debra Lyn Bassett, *Ruralism*, 88 IOWA L. REV. 273, 273 (2003); see also Debra Lyn Bassett, *Poverty and Global Ruralism*, 13 J. GENDER, RACE, & JUST. 1, 24 (2009) (observing that “discrimination against rural areas” is one of the main challenges of developing solutions to rural poverty).

context, offers useful elements to evaluate the work of the U.N. human rights system. Eisenberg poignantly asserts that the loss of rural ways of life and livelihoods in the United States is not the result of a “force[] of nature,” but “the consequence of deliberate policy choices; inaction in response to their fallout is similarly assumed to be somehow natural.”<sup>39</sup> With parallels to discussions of global urbanization, Eisenberg writes that “the dominant narrative [in the United States] suggests that livelihoods, local governments, and infrastructure across rural America are dying a natural death, inspiring mourning rather than efforts at resuscitation.”<sup>40</sup> But she argues that these communities have not died, they have been sacrificed: “public decisionmakers traded rural welfare for some perceived collective benefit.”<sup>41</sup>

Acknowledging the diversity of rural spaces and communities, Eisenberg describes two different types of distributive injustice affecting rural communities that are especially useful to understand the work of the human rights system as well: (i) the disparate resource allocation between urban and rural communities, which speaks to infrastructure and access to services;<sup>42</sup> and (ii) the role of centralized policy and legal frameworks shaping rural livelihoods and the “majoritarian-utilitarian treatment of rural livelihoods,” which describes a dynamic of exploitation, inequality, and asymmetrical access to power.<sup>43</sup> Both categories will be identified in the work of the UN treaty bodies analyzed in Parts II and III.<sup>44</sup>

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39. Eisenberg, *supra* note 31, at 193 (citation omitted).

40. *Id.* (citation omitted).

41. *Id.* at 195.

42. *Id.* at 224–28.

43. *Id.* at 201, 228–48.

44. *See infra* Parts II–III.

*B. Rurality-Specific Reference Points in the Human Rights System*

Before turning to an analysis of the HRC and CESCR, this Subpart will briefly review parallel spaces and developments that are relevant for contextualizing the work of these two bodies on questions of rurality and intersectionality.

The United Nations Declaration on the Rights of Indigenous Peoples,<sup>45</sup> and the related spaces in the U.N. system<sup>46</sup> have been critical in elevating many human rights issues of particular importance in rural areas, specifically applied to the individual and collective rights of Indigenous Peoples. In 2018, after seventeen years of activism from diverse rural social movements, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas<sup>47</sup> (UNDROP) was approved by the Human Rights Council and adopted by the General Assembly.<sup>48</sup> UNDROP was important not only for expanding existing human rights norms and practices to explicitly include and apply to rural people, but also for explicitly including and expanding the clarity around rights that were only previously identified as implicit in other declarations, including the rights to land and seeds.<sup>49</sup> Guidelines developed tangentially but with important connections to the human rights system, such as the U.N. Food

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45. G.A. Res. 61/295, annex, United Nations Declaration on the Rights of Indigenous Peoples (Oct. 2, 2007).

46. These spaces include the work of the Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples.

47. G.A. Res. 73/175, annex, United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (Dec. 17, 2018).

48. Mariagrazia Alabrese et al., *Introduction to THE UNITED NATIONS' DECLARATION ON PEASANTS' RIGHTS 1* (Mariagrazia Alabrese et al. eds., 2022); Priscilla Claeys & Marc Edelman, *The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas*, 47 J. PEASANT STUD. 1, 1 (2019).

49. Corina Heri has helpfully referred to these rights as “new-ish.” Corina Heri, *Justifying New Rights: Affectedness, Vulnerability, and the Rights of Peasants*, 21 GERMAN L.J. 702, 712 (2020).

and Agriculture Organization's Voluntary Guidelines on Responsible Governance of Tenure, are also important.<sup>50</sup>

Another critical force in the development of rurally-informed human rights guidance comes from the varied work of the U.N. special procedures under the auspices of the Human Rights Council. Although a full review is outside the scope of this Article, it is important to acknowledge that several thematic mandates are especially relevant to rural areas,<sup>51</sup> and other special procedures have specifically sought out thematic work on rural communities.<sup>52</sup> In another important example of a spatial justice framing, the Special Rapporteur on the Rights of Indigenous Peoples is currently working on a thematic report focusing specifically on Indigenous Peoples living in urban areas.<sup>53</sup>

This Article focuses on the work of the Human Rights Committee and the Committee on Economic, Social, and Cultural Rights, which are charged with monitoring the implementation of and compliance with the two main universal human rights treaties.<sup>54</sup> Although a full analysis of the so-called "group-specific treaties" is outside the scope of this Article, they have each had notable work on rurality as related to the particular group or axis of discrimination on which they focus.<sup>55</sup>

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50. See FOOD & AGRIC. ORG. OF THE U.N., VOLUNTARY GUIDELINES ON THE RESPONSIBLE GOVERNANCE OF TENURE OF LAND, FISHERIES AND FORESTS IN THE CONTEXT OF NATIONAL FOOD SECURITY 1 (2022).

51. Examples include food, the environment, and hazardous waste.

52. For example, the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation is currently working on two separate reports focused on Indigenous Peoples and impoverished rural communities. Special Rapporteur on the Human Rights to Safe Drinking Water & Sanitation, *Call for Input to 2022 Reports: Indigenous Peoples and People Living in Rural Areas*, U.N., <https://perma.cc/SP2H-7F8T> (last updated Jan. 20, 2022).

53. Special Rapporteur on the Rights of Indigenous Peoples, *Call for Inputs from the Mandate of the Special Rapporteur on the Rights of Indigenous Peoples for His Report to Be Presented at the 76th Session of the UN General Assembly*, U.N., <https://perma.cc/L7X4-WFHL> (last updated Aug. 31, 2021).

54. See *supra* note 18 and accompanying text.

55. See *infra* notes 56–72 and accompanying text.

The Convention on the Elimination of All Forms of Discrimination Against Women<sup>56</sup> (CEDAW) was the first treaty to explicitly reference rural difference in the text.<sup>57</sup> The CEDAW Committee has engaged with rurality specifically and promulgated General Recommendation No. 34 on the rights of rural women.<sup>58</sup> Professor Lisa Pruitt offers an important assessment of the history behind the rural exceptionalism manifested in the text of CEDAW.<sup>59</sup> Although she documents the limited and prejudicial conceptions of rurality—especially in the Global South—she ultimately identifies in CEDAW a human rights framework for advancing spatial equality, in addition to and in connection with gender equality.<sup>60</sup> The CEDAW Committee is the only treaty body that has received any scholarly attention for its treatment of rurality.

As Pruitt observes, the instruments that follow CEDAW, including the Convention on the Rights of the Child<sup>61</sup> and the Convention on the Rights of Persons with Disabilities<sup>62</sup> (CRPD), and the Committees that monitor them “approach rural

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56. Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 1 [hereinafter CEDAW].

57. Pruitt, *Deconstructing CEDAW's Article 14*, *supra* note 24, at 347; *see also* Campbell, *The Distance Between Us*, *supra* note 6, at 147.

58. U.N. Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 34 on the Rights of Rural Women, U.N. Doc. CEDAW/C/GC/34 (Mar. 7, 2016). Because of the explicit provisions in CEDAW and the important activism of rural feminists, there are important scholarly considerations of rurality and the work of CEDAW. *See, e.g.*, Johanna Bond, *CEDAW in Sub-Saharan Africa: Lessons in Implementation*, 2014 MICH. STATE L. REV. 241, 245–46 (2014); Campbell, *CEDAW and Women's Intersecting Identities*, *supra* note 6, at 495–96; Joanna Bourke Martignoni, *A Feminist Methodology for Implementing the Right to Food in Agrarian Communities: Reflections from Cambodia and Ghana*, 48 J. PEASANT STUD. 1459, 1464 (2021).

59. Pruitt, *Deconstructing CEDAW's Article 14*, *supra* note 24, at 355–58.

60. *Id.* at 359 (“CEDAW is concerned not only that women gain equality with men, it seeks to some extent rural women’s equality (or perhaps parity) with urban women. . . . CEDAW is at least implicitly concerned with all rural populations, not only with women.”)

61. Convention on the Rights of the Child, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3.

62. Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, 2515 U.N.T.S. 3 [hereinafter CRPD].

difference more in terms of rural places and less in terms of rural people.”<sup>63</sup> This distinction also appears in the work of the treaty bodies analyzed in more depth below. Pruitt explains that they do this by “acknowledging the consequences of rurality, which includes the spatial and resource-based challenges to rural service delivery.”<sup>64</sup>

The Convention on the Rights of the Child, adopted in 1989, does not mention rurality in its text, but it grew out of a movement that included a strong focus on rural areas,<sup>65</sup> and several General Comments by the Committee on the Rights of the Child specifically mention rurality.<sup>66</sup> The International Convention on the Elimination of All Forms of Racial Discrimination<sup>67</sup> (ICERD) does not mention rural difference in its text or explicitly in any of its General Comments. A cursory review of the concluding observations to the periodic reviews of

63. Pruitt, *Deconstructing CEDAW's Article 14*, *supra* note 24, at 393. This is also the trend of the work of the CESCR. *See infra* Part III.

64. Pruitt, *Deconstructing CEDAW's Article 14*, *supra* note 24, at 393–94.

65. Robert S. Lawrence et al., *Poverty, Food Security, and the Right to Health*, 14 GEO. J. POVERTY L. & POL'Y 583, 585–86 (2008)

The Child Survival and Development Campaign's emphasis on the importance of food security and adequate nutrition and the ratification of the Convention on the Rights of the Child were the products of decades of growing awareness of the vulnerability of children living in poverty, especially those in rural areas of low-income countries. (citation omitted).

66. Comm. on the Rts. of the Child [C.R.C], Gen. Comment No. 3: HIV/AIDS and the Rights of the Child, ¶¶ 7, 21, U.N. Doc. CRC/GC/2003/3 (Mar. 17, 2003); C.R.C, Gen. Comment No. 7: Implementing Child Rights in Early Childhood, ¶ 39, U.N. Doc. CRC/C/GC/7/Rev.120 (Sept. 20, 2006); C.R.C, Gen. Comment No. 17 on the Right of the Child to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts (art. 31), ¶¶ 16, 57(b), 57(f), U.N. Doc. CRC/C/GC.17 (Apr. 17, 2013); C.R.C, Gen. Comment No. 9: The Rights of Children with Disabilities, ¶ 8, U.N. Doc. CRC/C/GC/9 (Feb. 27, 2007); C.R.C, Gen. Comment No. 11: Indigenous Children and Their Rights Under the Convention, ¶¶ 29, 51, U.N. Doc. CRC/C/GC/11 (Feb. 12, 2009); C.R.C, Gen. Comment No. 19 on Public Budgeting for the Realization of Children's Rights (Art. 4), ¶ 77(b), U.N. Doc. CRC/C/GC/19 (July 20, 2016); C.R.C, Gen. Comment No. 21 on Children in Street Situations, ¶ 51, U.N. Doc. CRC/G/GC/21 (June 21, 2017).

67. International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* Dec. 21, 1965, 660 U.N.T.S. 195, T.I.A.S. No. 94-1120.

states parties to ICERD suggests important engagement with the intersection of rurality and structural racism, worthy of further study.

Adopted more recently in 2006, the Convention on the Rights of Persons with Disabilities, however, does recognize rurality in Article 9(1), on accessibility, and Article 25(c), on the proximity of health services.<sup>68</sup> Five of the seven General Comments issued to date specifically reference rural areas.<sup>69</sup> General Comment No. 3 includes a mention of intersectional challenges for disabled women<sup>70</sup> and also refers to “urban and rural areas.”<sup>71</sup> Together with other pivotal guidance coming from the CEDAW Committee and the CESCR, the Committee on the Rights of Persons with Disabilities (“CRPD Committee”) creates a touchpoint for considering together dimensions of gender, disability, and rurality. The CRPD Committee offers a helpful statement of its intersectional approach in its General Comment No. 3: “The concept of intersectional discrimination recognizes that individuals do not experience discrimination as members of a homogenous group, but, rather, as individuals with multidimensional layers of identities, statuses and life circumstances.”<sup>72</sup>

Spatial inequality is acknowledged in the crosscutting guidelines for states parties in what they are expected to report in their periodic review before any of the U.N. human rights

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68. CRPD, *supra* note 62, arts. 9(1), 25(c).

69. Comm. on the Rts. of Persons with Disabilities [CRPD Comm.], Gen. Comment No. 2—Article 9: Accessibility, ¶¶ 13, 16, U.N. Doc. CRPD/C/GC/2 (May 22, 2014); CRPD Comm., Gen. Comment No. 3 on Women and Girls with Disabilities, ¶ 48, U.N. Doc. CRPD/C/GC/3 (Nov. 25, 2016); CRPD Comm., Gen. Comment No. 5 on Living Independently and Being Included in the Community, ¶¶ 35, 63, U.N. Doc. CRPD/C/GC/5 (Oct. 22, 2017); CRPD Comm., Gen. Comment No. 6 on Equality and Non-Discrimination, ¶ 33, U.N. Doc. CRPD/C/GC/6 (Apr. 26, 2018); CRPD Comm., Gen. Comment No. 7 on the Participation of Persons with Disabilities, Including Children with Disabilities, Through Their Representative Organizations, in the Implementation and Monitoring of the Convention, ¶¶ 45, 50, 87, 91, U.N. Doc. CRPD/C/GC/7 (Nov. 9, 2018).

70. Gen. Comment No. 3 on Women and Girls with Disabilities, *supra* note 69, ¶ 10.

71. *Id.* ¶ 48.

72. *Id.* ¶ 16.



treaty bodies. The document encourages states to report on spatial disparities as a relevant axis of discrimination, urging them to “provide information on specific measures adopted to reduce economic, social and geographical disparities, including between rural and urban areas, to prevent discrimination, as well as situations of multiple discrimination, against the persons belonging to the most disadvantaged groups.”<sup>73</sup>

Adopted in 1966, neither the ICCPR nor the ICESCR explicitly acknowledge rurality, geography, or rural-urban difference.<sup>74</sup> Parts II and III below analyze in detail how the corresponding treaty bodies have and have not engaged with rurality as an intersecting axis of inequality affecting the rights set out in the foundational human rights treaties.

## II. HUMAN RIGHTS COMMITTEE

### A. *Considerations of Nondiscrimination and Equality*

The ICCPR’s two nondiscrimination provisions reproduce the language of the Universal Declaration of Human Rights and its seemingly inclusive prohibition of “distinction of any kind” on grounds “such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>75</sup> Article 2 of the ICCPR prohibits discrimination in terms of the rights protected by the Covenant, but Article 26 is not limited to the rights in the Covenant.<sup>76</sup> Article 26 guarantees the right to equality before the law and the right to nondiscrimination more broadly.<sup>77</sup> In this way, the ICCPR is relevant to considering systemic discrimination or

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73. See U.N. Inter-Comm. Tech. Working Grp., Harmonized Guidelines on Reporting Under the International Human Rights Treaties, Including Guidelines on a Common Core Document and Treaty-Specific Documents, ¶ 55, U.N. Doc. HRI/MC/2006/3 (May 10, 2006).

74. See *supra* note 19 and accompanying text.

75. Compare UDHR, *supra* note 17, art. 2, with ICCPR, *supra* note 14, arts. 2(1), 26.

76. See Hum. Rts. Comm. [H.R.C.], CCPR Gen. Comment No. 18: Non-Discrimination, ¶ 12 (Nov. 21, 1989).

77. *Id.*

inequality in terms of the enjoyment of any rights guaranteed under law.

The Human Rights Committee (HRC) issued its General Comment No. 18 on nondiscrimination in 1989.<sup>78</sup> The HRC drew on the definition of discrimination found in CEDAW and ICERD to set out a matching definition for the ICCPR.<sup>79</sup> The HRC emphasized that in addition to formal nondiscrimination protections, it wanted states parties to report on legal and administrative measures aimed at eliminating discrimination “in fact.”<sup>80</sup> The HRC noted that affirmative action may be required “to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant.”<sup>81</sup> The state was expected to take actions to correct the general conditions that prevent or impair a certain part of the population from enjoying their human rights.<sup>82</sup>

Although the inclusion of “such as” suggests the lists of prohibited grounds is non-exhaustive, the HRC has interpreted it as exclusive.<sup>83</sup> In terms of the stated list of prohibited grounds, General Comment No. 18 does not expand on the definition of social origin or what may be included on “other status.”<sup>84</sup> The individual complaints jurisprudence has made it clear that

78. *See id.* at 1.

79. *Id.* ¶ 7

While [ICERD and CEDAW] deal only with cases of discrimination on specific grounds, the [HRC] believes that the term “discrimination” as used in the [ICCPR] should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

80. *Id.* ¶ 9.

81. *Id.* ¶ 10.

82. *Id.*

83. *See* Daniel Moeckli, *Equality and Non-Discrimination, in* INTERNATIONAL HUMAN RIGHTS LAW 148, 156 (Daniel Moeckli et al. eds., 3d ed. 2018) (“[The Committee’s] efforts to apply one of the listed grounds [to resolve individual complaints] suggest that the Committee regards the list of Article 26 as exhaustive . . .”).

84. *See generally* Gen. Comment No. 18: Non-Discrimination, *supra* note 76.

sexual orientation, national origin, marital status, and age are included.<sup>85</sup>

Some recognition on the intersectional dimension of discrimination appeared in 2000 in the HRC's General Comment No. 28 on equality between men and women.<sup>86</sup> This Comment was an update of the previous version from 1981 and focuses on Article 3 of the ICCPR, which sets out the mandate to guarantee equality of rights between men and women.<sup>87</sup> The HRC acknowledged that gender-based discrimination is often "intertwined" with discrimination on other grounds and listed verbatim the prohibited grounds from the Covenant.<sup>88</sup> The General Comment called on states parties to "address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects."<sup>89</sup>

### B. General Comments

The Human Rights Committee's thirty-seven General Comments issued to date do not include any explicit reference to rurality or to rural-urban difference. Several themes and provisions, though, are uniquely rurally relevant. For example, General Comment No. 23 on the rights of minorities notes that "culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples,"<sup>90</sup> or "a way of life which is closely associated with territory and use of its resources."<sup>91</sup>

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85. Moeckli, *supra* note 83, at 156.

86. H.R.C., Gen. Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), ¶ 30, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000).

87. *Id.* ¶¶ 1–2.

88. *Id.* ¶ 30.

89. *Id.*

90. H.R.C., Gen. Comment No. 23: Article 27 (Rights of Minorities), ¶ 7, U.N. Doc. CCPR/C/21/Rev.1/Add.5 (Apr. 26, 1994).

91. *Id.* ¶ 3.2.

The new General Comment No. 36 updates the HRC's guidance on the right to life.<sup>92</sup> The HRC adopted the General Comment in October 2018,<sup>93</sup> just a few weeks after the Human Rights Council had passed the resolution approving the draft of UNDROP.<sup>94</sup> While General Comment No. 36 has a robust list of particularly vulnerable groups, it does not include peasants or other rural people.<sup>95</sup> There are specific mentions of Indigenous Peoples and the harm caused by loss of territory and resources,<sup>96</sup> and there is a paragraph on the relation between environmental degradation and the right to life.<sup>97</sup> The paragraph on discrimination in General Comment No. 36 repeats the grounds from the ICCPR and adds other statuses that have been recognized in the work of the HRC or other bodies.<sup>98</sup> The Comment notes that legal protections must provide all individuals with “effective guarantees against all forms of discrimination, including multiple and intersectional forms of discrimination.”<sup>99</sup>

### C. Concluding Observations in Country Reviews

Although rurality is not acknowledged explicitly as an axis of inequality in any of the General Comments, within the HRC's concluding observations and views on individual complaints there are important considerations of spatial factors in connection with other identities and conditions. A review of all HRC concluding observations from 2013 to 2022 reveals that the Committee acknowledges rurality around a few main themes,

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92. See H.R.C., Gen. Comment No. 36 – Article 6: Right to Life, ¶ 1, U.N. Doc. CCPR/C/GC/36 (Oct. 30, 2018).

93. *Id.*

94. Human Rights Council Res. 39/12, annex, U.N. Doc. A/HRC/RES/39/12 (Sept. 28, 2018).

95. Gen. Comment No. 36 – Article 6: Right to Life, *supra* note 92, ¶¶ 23–25.

96. *Id.* ¶¶ 22, 26.

97. *Id.* ¶ 62.

98. See *id.* ¶ 61 (adding statuses such as “caste, ethnicity, membership of an indigenous group, sexual orientation or gender identity, disability, socioeconomic status, albinism, and age”).

99. *Id.*

each with important ties to gender, ethnicity, and poverty. The most prominent theme is sexual and reproductive health and rights. Seventeen of the country reviews emphasized the distinct shortcomings and barriers to guaranteeing sexual and reproductive health in rural areas, including access to contraception and abortions.<sup>100</sup> The next most common issues in which rurality was explicitly acknowledged were birth registration, with eleven recent reviews making the connections,<sup>101</sup> and the prevalence of customary practices such

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100. H.R.C., Concluding Observations on the Fifth Periodic Rep. of Togo, ¶ 24, U.N. Doc. CCPR/C/TGO/CO/5 (Aug. 24, 2021); H.R.C., Concluding Observations on the Sixth Periodic Rep. of Tunisia, ¶ 25, U.N. Doc. CCPR/C/TUN/CO/6 (Apr. 24, 2020); H.R.C., Concluding Observations on the Sixth Periodic Rep. of Mexico, ¶ 25, U.N. Doc. CCPR/C/MEX/CO/6 (Dec. 4, 2019); H.R.C., Concluding Observations on Nigeria in the Absence of its Second Periodic Rep., ¶ 22, U.N. Doc. CCPR/C/NGA/CO/2 (Aug. 29, 2019); H.R.C., Concluding Observations on the Second Rep. of Namibia, ¶ 16(b), U.N. Doc. CCPR/C/NAM/CO/2 (Apr. 22, 2016); H.R.C., Concluding Observations on the Second Periodic Rep. of the Niger, ¶¶ 24–25, U.N. Doc. CCPR/C/NER/CO/2 (May 15, 2019); H.R.C., Concluding Observations on Equatorial Guinea in the Absence of its Initial Rep., ¶ 32, U.N. Doc. CCPR/C/GNQ/CO/1 (Aug. 22, 2019); H.R.C., Concluding Observations on the Fifth Periodic Rep. of Romania, ¶¶ 25–26, U.N. Doc. CCPR/C/ROU/CO/5 (Dec. 11, 2017); H.R.C., Concluding Observations on the Fifth Periodic Rep. of Cameroon, ¶ 22, U.N. Doc. CCPR/C/CMR/CO/5 (Nov. 30, 2017); H.R.C., Concluding Observations on the Initial Rep. of Pakistan, ¶ 16, U.N. Doc. CCPR/C/PAK/CO/1 (Aug. 23, 2017); H.R.C., Concluding Observations on the Initial Periodic Rep. of Malawi, ¶ 9, U.N. Doc. CCPR/C/MWI/CO/1/Add.1 (Aug. 19, 2014); H.R.C., Concluding Observations on the Fourth Periodic Rep. of Rwanda, ¶ 18(c), U.N. Doc. CCPR/C/RWA/CO/4 (May 2, 2016); H.R.C., Concluding Observations on the Fourth Periodic Rep. of Madagascar, ¶ 21, U.N. Doc. CCPR/C/MDG/CO/4 (Aug. 22, 2017); H.R.C., Concluding Observations on the Initial Rep. of South Africa, ¶ 16, U.N. Doc. CCPR/C/ZAF/CO/1 (Apr. 27, 2016); H.R.C., Concluding Observations on the Third Periodic Rep. of the Republic of Moldova, ¶ 18(a), U.N. Doc. CCPR/C/MDA/CO/3 (Nov. 18, 2016); H.R.C., Concluding Observations on the Initial Rep. of Burkina Faso, ¶¶ 19–20, U.N. Doc. CCPR/C/BFA/CO/1 (Oct. 17, 2016).

101. H.R.C., Concluding Observations on the Fifth Periodic Rep. of Senegal, ¶¶ 42–43, U.N. Doc. CCPR/C/SEN/CO/5 (Dec. 11, 2019); H.R.C., Concluding Observations on the Fourth Periodic Rep. of Paraguay, ¶¶ 40–41, U.N. Doc. CCPR/C/PRY/CO/4 (Aug. 20, 2019); H.R.C., Concluding Observations on the Second Periodic Rep. of Angola, ¶ 38, U.N. Doc. CCPR/C/AGO/CO/2 (May 8, 2019); H.R.C., Concluding Observations on the Initial Rep. of Belize, ¶ 44, U.N. Doc. CCPR/C/BLZ/CO/1/Add.1 (Dec. 11, 2018); H.R.C., Concluding Observations on The Gambia in the Absence of its Second

as child marriage and female genital mutilation in rural areas, which was raised in nine reviews.<sup>102</sup>

The other explicit acknowledgements of the particularities of rural spaces in HRC country reviews also related to other identities and axes of marginalization, including violence against women,<sup>103</sup> shelters for migrants,<sup>104</sup> property and land

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Periodic Rep., ¶ 47, U.N. Doc. CCPR/C/GMB/CO/2 (Aug. 30, 2018); H.R.C., Concluding Observations on the Initial Rep. of Liberia, ¶ 44, U.N. Doc. CCPR/C/LBR/CO/1 (Aug. 27, 2018); H.R.C., Concluding Observations on the Fourth Periodic Rep. of Guatemala, ¶¶ 34–35, U.N. Doc. CCPR/C/GTM/CO/4 (May 7, 2018); H.R.C., Concluding Observations on the Initial Rep. of Ghana, ¶ 37, U.N. Doc. CCPR/C/GHA/CO/1 (Aug. 9, 2016); H.R.C., Concluding Observations on the Second Periodic Rep. of Benin, ¶¶ 34–35, U.N. Doc. CCPR/C/BEN/2 (Nov. 22, 2015); H.R.C., Concluding Observations on the Third Periodic Rep. of the Former Yugoslav Republic of Macedonia, ¶ 20, U.N. Doc. CCPR/C/MKD/CO/3 (Aug. 17, 2015); H.R.C., Concluding Observations on the Initial Rep. of Mozambique, ¶ 20, U.N. Doc. CCPR/C/MOZ/CO/1 (Nov. 19, 2013).

102. Concluding Observations on the Fifth Periodic Rep. of Togo, *supra* note 100, ¶ 21; Concluding Observations on the Initial Rep. of Angola, *supra* note 101, ¶ 24; H.R.C., Concluding Observations on the Sixth Periodic Rep. of the Dominican Republic, ¶ 13, U.N. Doc. CCPR/C/DOM/CO/6 (Nov. 27, 2017); H.R.C., Concluding Observations on the Fourth Periodic Rep. of Azerbaijan, ¶ 14, U.N. Doc. CCPR/C/AZE/CO/4 (Nov. 16, 2016); Concluding Observations on the Fourth Periodic Rep. of Rwanda, *supra* note 100, ¶ 16; H.R.C., Concluding Observations on the Fifth Periodic Rep. of Uzbekistan, ¶¶ 14–15, U.N. Doc. CCPR/C/UZB/CO/5 (Apr. 30, 2020); H.R.C., Concluding Observations on the Initial Rep. of Côte d'Ivoire, ¶ 12, U.N. Doc. CCPR/C/CIV/CO/1 (Apr. 28, 2015); H.R.C., Concluding Observations on the Second Periodic Rep. of Mauritania, ¶¶ 16–17, U.N. Doc. CCPR/C/MRT/CO/2 (Aug. 23, 2019); Concluding Observations on the Initial Rep. of Mozambique, *supra* note 101, ¶ 10 (Nov. 19, 2013).

103. H.R.C., Concluding Observations on the Fourth Periodic Rep. of Kenya, ¶ 19, U.N. Doc. CCPR/C/KEN/CO/4 (May 11, 2021); H.R.C., Concluding Observations on the Seventh Periodic Rep. of Finland, ¶¶ 18–19, U.N. Doc. CCPR/C/FIN/CO/7 (Apr. 1, 2021); Concluding Observations on the Fourth Periodic Rep. of Paraguay, *supra* note 101, ¶ 19; Concluding Observations on the Initial Rep. of Liberia, *supra* note 101, ¶ 43; Concluding Observations on the Sixth Periodic Rep. of the Dominican Republic, *supra* note 102, ¶¶ 13–14; H.R.C., Concluding Observations on the Initial Rep. of Haiti, ¶ 13, U.N. Doc. CCPR/C/HTI/CO/1 (Nov. 21, 2014); H.R.C., Concluding Observations on the Initial Rep. of Sierra Leone, ¶ 15, U.N. Doc. CCPR/C/SLE/CO/1 (Apr. 17, 2014).

104. H.R.C., Concluding Observations on the Seventh Periodic Rep. of Germany, ¶¶ 16–17, U.N. Doc. CCPR/C/DEU/CO/7 (Nov. 30, 2021);

rights for women,<sup>105</sup> equal pay between men and women,<sup>106</sup> rights of LGBTI persons,<sup>107</sup> and vulnerability to human trafficking.<sup>108</sup> Several reviews focused on the lack of access to justice—some on access to courts and attorneys generally,<sup>109</sup> but more often on the lack of access to justice for violence against women.<sup>110</sup> Two reviews specifically refer to the rights of rural women to participate in public life.<sup>111</sup>

With just two exceptions, the HRC only mentioned rurality in the reviews of low- or middle-income countries.<sup>112</sup> The two

Concluding Observations on The Gambia in the Absence of its Second Periodic Rep., *supra* note 101, ¶ 45.

105. Concluding Observations on the Fourth Periodic Rep. of Rwanda, *supra* note 100, ¶ 11; Concluding Observations on the Fourth Periodic Rep. of Madagascar, *supra* note 100, ¶ 19.

106. Concluding Observations on the Fourth Periodic Rep. of Guatemala, *supra* note 101, ¶ 8.

107. H.R.C., Concluding Observations on Swaziland in the Absence of a Rep., ¶¶ 17–21, U.N. Doc. CCPR/C/SWZ/CO/1 (Aug. 23, 2021).

108. H.R.C., Concluding Observations on the Second Periodic Rep. of Honduras, ¶¶ 36–37, U.N. Doc. CCPR/C/HND/CO/2 (2017); Concluding Observations on the Second Periodic Rep. of Benin, *supra* note 101, ¶ 10; H.R.C., Concluding Observations on the Third Periodic Rep. of Croatia, ¶ 17, U.N. Doc. CCPR/C/HRV/CO/3 (2015); Concluding Observations on the Initial Rep. of Sierra Leone, *supra* note 103, ¶ 24.

109. Concluding Observations on the Initial Rep. of Angola, *supra* note 101, ¶ 20; Concluding Observations on The Gambia in the Absence of its Second Periodic Rep., *supra* note 101, ¶¶ 37–38; Concluding Observations on the Initial Rep. of Liberia, *supra* note 101, ¶ 11, 19, 24; H.R.C., Concluding Observations on the Fourth Periodic Rep. of the Democratic Republic of the Congo, ¶ 37, U.N. Doc. CCPR/C/COD/CO/4 (Nov. 30, 2017); H.R.C., Concluding Observations on the Third Periodic Rep. of the Plurinational State of Bolivia, ¶ 22, U.N. Doc. CCPR/C/BOL/CO/3 (Dec. 6, 2013).

110. Concluding Observations on the Fourth Periodic Rep. of Paraguay, *supra* note 101, ¶ 19; Concluding Observations on the Initial Rep. of Liberia, *supra* note 101, ¶¶ 6–7; Concluding Observations on the Fourth Periodic Rep. of Guatemala, *supra* note 101, ¶ 8.

111. Concluding Observations on the Sixth Periodic Rep. of Mexico, *supra* note 100, ¶ 10; H.R.C., Concluding Observations on the Third Periodic Report of Viet Nam, ¶¶ 19–20, U.N. Doc. CCPR/C/VNM/CO/3 (Aug. 29, 2019).

112. *Compare Low & Middle Income*, THE WORLD BANK, <https://perma.cc/655E-XDSE> (listing countries categorized as low- or middle-income), *with supra* notes 100–111 (listing countries whose reviews before the HRC contained references to rurality).

exceptions are the reference to the lack of shelters for migrants in rural areas of Germany<sup>113</sup> and the concern over the “insufficient number of shelters and rape crisis centres, especially in remote rural areas,” in Finland.<sup>114</sup>

One example of this missing analysis is the review of Canada, a high-income country that submitted its periodic report in the same timeframe. In the HRC’s concluding observations, human rights issues with particular relevance in rural areas were prominent, but the Committee did not explicitly acknowledge or consider the connection to the unique dynamics of rural spaces and communities. These include, for example, abuses related to mining operations in Canada and abroad,<sup>115</sup> and the systemic violence and impunity related to missing and murdered Indigenous women.<sup>116</sup>

The extent to which the disparate treatment of rurality coincides with different frames adopted by the civil society participating in each country review is a question for further study. Nonetheless, the stark difference in the framing of human rights challenges as related to rural spaces and rural identities recalls the reflection by former HRC member Rosalyn Higgins on her departure from the committee: “As for the liberal democracies, their approach has often been that the Covenant is a splendid instrument—splendid, that is, for the Third World

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113. See Concluding Observations on the Seventh Periodic Rep. of Germany, *supra* note 104, ¶ 16(c) (noting “[c]ontinued shortages . . . and issues limiting access”).

114. Concluding Observations on the Seventh Periodic Rep. of Finland, *supra* note 103, ¶ 18.

115. See H.R.C., Concluding Observations on the Sixth Periodic Rep. of Canada, ¶ 6, U.N. Doc. CCPR/C/CAN/CO/6 (Aug. 13, 2015) (“[T]he Committee is concerned about the allegations of human rights abuses by Canadian companies operating abroad, in particular mining corporations, and about the inaccessibility to remedies by victims of such violations.”).

116. See *id.* ¶ 9, 21 (“The Committee is concerned that indigenous women and girls are disproportionately affected by life-threatening forms of violence, homicides, and disappearances. . . . [T]he Committee is concerned about the lack of information on measures taken to investigate, prosecute and punish those responsible.”).



countries and Eastern Europe, where human rights are in urgent need of attention.”<sup>117</sup>

#### D. *Jurisprudence from Individual Complaints*

In a review of all individual complaints deemed admissible by the HRC, several related to victims who assume and center their rural identity.<sup>118</sup> For most of these cases, however, rurality was not a material fact in the reasoning of the HRC. A recent exception is the landmark case of *Portillo Cáceres et al. v. Paraguay*<sup>119</sup> from 2019. The case is primarily known for the HRC’s recognition of the ties between environmental protection and the right to life.<sup>120</sup> But more than that, it is a groundbreaking recognition by the HRC of rural livelihoods and ways of life, independent from any indigenous or minority identity.<sup>121</sup> With this case, the HRC became the first U.N. treaty

117. Rosalyn Higgins, *Opinion: Ten Years on the UN Human Rights Committee*, 1 EUR. HUM. RTS. L. REV. 570, 581 (1996).

118. Examples include rural activists in Paraguay, Colombia, and Nepal alleging violations from right to life to freedom of expression or association. See, e.g., H.R.C., Benito Oliveira Pereira et al. v. Paraguay, Dictamen aprobado por el Comité a tenor del artículo 5, párrafo 4, del Protocolo Facultativo, respecto de la comunicación núm. 2552/2015 [Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2552/2015], U.N. Doc. CCPR/C/132/2552/2015 (Oct. 12, 2021); H.R.C., José Antonio Coronel et al. v. Colombia, Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 778/1997, U.N. Doc. CCPR/C/76/D/778/1997 (Nov. 29, 2002); H.R.C., Bholi Pharaka v. Nepal, Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2773/2016, U.N. Doc. CCPR/C/126/D/2773/2016 (Oct. 2, 2019).

119. H.R.C., Norma Portillo Cáceres et al. v. Paraguay, Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2751/2016, U.N. Doc. CCPR/C/126/D/2751/2016 (Sept. 20, 2019) [hereinafter *Portillo Cáceres v. Paraguay*].

120. See, e.g., Ginevra Le Moli, *The Human Rights Committee, Environmental Protection and the Right to Life*, 69 INT’L & COMP. L.Q. 735, 735–36 (2020).

121. See *Portillo Cáceres v. Paraguay*, *supra* note 119, ¶ 7.8 (recognizing claimants’ “special attachment to and dependency on the land” and determining that this “way of life . . . fall[s] under the scope of protection of article 17” of the ICCPR).

body to rely on the UNDROP in its reasoning in addressing an individual complaint.<sup>122</sup>

In this case, a man died and two children became ill because of poisoning from agritoxins sprayed by agribusinesses near the family home and the land they worked.<sup>123</sup> The case was brought by the sister, partner, and mothers of the direct victims.<sup>124</sup> These women claimed a violation of the right to life for the man who died, as well as a separate violation of their own rights to home, privacy, and family life under Article 17 of the ICCPR.<sup>125</sup> They made this latter claim based on the detrimental and particular impact on their daily lives—pollution of the water where they fished, the well where they fetched water, and the crops they used for food, as well as the deaths of their farm animals.<sup>126</sup> The claimants situated their very individual complaint in the context of the mass use of agritoxins by the large agribusinesses nearby and the systemic failure of the state to protect them from harm and to ensure effective remedy.<sup>127</sup> In its reasoning, the HRC drew on pronouncements and analyses from country reviews by the CESCR, the CEDAW Committee, and the Committee on the Rights of the Child, citing their recognition of the detrimental and differential impacts of agritoxins.<sup>128</sup>

In its decision, the HRC cited the UNDROP and reasoned that the farm animals, crops, fruit trees, water resources, and fish constituted components of this family's way of life.<sup>129</sup> The HRC ultimately found that although there is no general right to a healthy environment recognized under the ICCPR, this was a case where the environmental hazard directly led to a significant reduction in this family's ability to enjoy their home,

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122. CHRISTOPHE GOLAY, GENEVA ACAD., RESEARCH BRIEF: THE RIGHT TO LAND AND OTHER NATURAL RESOURCES 4 (2020).

123. See Portillo Cáceres v. Paraguay, *supra* note 119, ¶¶ 2.1, 2.5.

124. *Id.* ¶ 1.

125. *Id.*

126. *Id.* ¶ 7.2.

127. *Id.* ¶ 2.3.

128. *Id.* ¶ 3.2.

129. *Id.* ¶ 7.5.

privacy, and family life as protected by Article 17.<sup>130</sup> This case stands out due to its consideration of rurality not only as the backdrop explaining inequality, but instead as a feature of the identity and life project of people requiring an expansion of relevant norms to adequately address the harms and prescribe remedies. To grasp the importance of this development in the arc of the HRC's jurisprudence, it is helpful to compare this case with another from 2009.

In *Poma Poma v. Peru*,<sup>131</sup> the claimant was an indigenous woman alleging that state interference with water resources, and its failure to protect the water resources from intervention by private actors, directly impacted her ability to practice her traditional activities of grazing and raising alpacas and llamas.<sup>132</sup> She filed the complaint under Article 17 as a violation of "home, privacy, and family life,"<sup>133</sup> but the Committee summarily decided to instead consider it under Article 27 on minority rights.<sup>134</sup> At stake in this case was whether Article 1 on self-determination was justiciable in the individual complaints mechanism;<sup>135</sup> however, the result left Article 17 underdeveloped, especially for individuals and communities who do not identify under the minority protections. As one commentator noted,

Ms. Poma Poma did not want to succeed due to the fact that she was an individual member of a minority [as the HRC determined under Article 27,] but because her people as a whole had been collectively deprived of its right to freely dispose of its natural resources and to continue to live according to their traditional way of life.<sup>136</sup>

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130. *Id.* ¶¶ 7.7–7.8.

131. H.R.C., *Ángela Poma Poma v. Peru*, Views of the Human Rights Committee Under Article 5, Paragraph 4, of the Optional Protocol, U.N. Doc. CCPR/C/95/D/1457/220 (Apr. 24, 2009).

132. *Id.* ¶ 3.1.

133. *Id.* ¶ 3.3.

134. *Id.* ¶ 6.5.

135. *Id.* ¶ 6.3.

136. Katja Göcke, *The Case of Ángela Poma Poma v. Peru Before the Human Rights Committee: The Concept of Free Prior and Informed Consent and the Application of the International Covenant on Civil and Political Rights*

In short, *Portillo Cáceres* is remarkable for adopting a rurality-relevant definition of home, privacy, and family life; with this outcome and its reliance on the UNDROP, the HRC has made an important contribution. Taken together with the vast work of its concluding observations in country reviews, the HRC has engaged with and acknowledged rural difference in important ways. Advocates can draw and build on this work to continue to press for full consideration of the role that rurality plays in diagnosing systemic human rights challenges and advancing meaningful responses before the HRC and elsewhere.

### III. COMMITTEE ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

#### A. *General Comments: Intersectional Discrimination*

Like the ICCPR, there is nothing in the ICESCR's text that explicitly acknowledges geographical or rural-urban difference. However, the CESCR has given explicit treatment to this question through its General Comments.<sup>137</sup> The ICESCR reproduces the same list of prohibited grounds as the UDHR and the ICCPR: "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."<sup>138</sup> Unlike the HRC, the CESCR has made it clear this list is not exhaustive.<sup>139</sup>

In 2009, the CESCR adopted General Comment No. 20, which focused on nondiscrimination.<sup>140</sup> The Comment notes

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*to the Protection and Promotion of Indigenous Peoples' Rights*, 14 MAX PLANCK Y.B. ON U.N.L. 337, 347 (2010).

137. See, e.g., Comm. on Econ., Soc., & Cultural Rts. [C.E.S.C.R.], Gen. Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (Art. 2, Para. 2, of the International Covenant on Economic, Social and Cultural Rights), ¶ 34, U.N. Doc. E/C.12/GC/20 (July 2, 2009) [hereinafter Gen. Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights] (noting the potential for "[d]isparities between localities and regions," especially urban versus rural areas).

138. ICESCR, *supra* note 15, art. 2(2).

139. Gen. Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, *supra* note 137, ¶ 27.

140. See *id.* ¶ 2.

specifically that discrimination includes “the intersection of two prohibited grounds,” citing the example of sex and disability.<sup>141</sup> This Comment builds on the CESCR’s General Comment No. 16 on gender equality, which cites the Committee on the Elimination of All Forms of Racial Discrimination’s General Comment on gender to assert that “[m]any women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage.”<sup>142</sup>

General Comment No. 20 expands on what is included in the ICESCR’s mention of “other status” as grounds of discrimination.<sup>143</sup> The CESCR explicitly lists several additional grounds such as age, nationality, sexual orientation and gender identity, as well as what the Committee calls “place of residence.”<sup>144</sup> Under “place of residence,” the CESCR explains that enjoyment of the economic, social, and cultural rights should not be determined by whether an individual lives in a urban or rural area.<sup>145</sup> It notes that location-related disparities should be eliminated by ensuring the equal availability and quality of public services.<sup>146</sup> The CESCR has adopted a focus on substantive equality in its approach, which is reflected in both General Comments Nos. 16 and 20.<sup>147</sup>

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141. *Id.* ¶ 27.

142. C.E.S.C.R., Gen. Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the International Covenant on Economic, Social and Cultural Rights), ¶ 5, U.N. Doc. E/C.12/2005/4 (Aug. 11, 2005) [hereinafter Gen. Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights].

143. *See* Gen. Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, *supra* note 137, ¶¶ 27–35.

144. *Id.*

145. *Id.* ¶ 34.

146. *Id.*

147. *See* Rebecca Brown et al., *Equality and Non-Discrimination, in THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: A COMMENTARY* 253, 255–56 (MALCOLM LANGFORD ET AL. EDS., 2016) (“[The] substantive or *de facto* equality approach . . . requires

*B. General Comments: Recognizing Rurality*

In the CESCR's early General Comments from 1991 to 2009, rural difference is acknowledged primarily by making clear that human rights obligations apply whether in rural or urban areas.<sup>148</sup> The General Comment on aging emphasizes the heterogeneity of older persons of a group and includes "the urban or rural environment" as one of the conditions determining one's particular situation.<sup>149</sup> Rural areas are also acknowledged independently, without comparison to urban areas, in some cases. For example, General Comment No. 5 on disabilities begins by noting that, of the more than 500 million people living with disabilities, an estimated 80 percent live in rural areas in developing countries.<sup>150</sup> General Comment No. 14 on health asserts that "[p]ublic health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas."<sup>151</sup> General Comment No. 15 on water states that 80 percent of the 1.1

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the State to take positive measures to address the context and manifestation of discrimination.").

148. C.E.S.C.R., Gen. Comment No. 5: Persons with Disabilities, ¶ 22 U.N. Doc. E/1995/22 (Dec. 9, 1994); C.E.S.C.R., Gen. Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant), ¶ 8(f), U.N. Doc. E/1992/23 (Dec. 13, 1991); C.E.S.C.R., Gen. Comment No. 7: The Right to Adequate Housing (Art. 11(1) of the Covenant): Forced Evictions, ¶¶ 5, 7, U.N. Doc. E/1998/22, (May 20, 1997); C.E.S.C.R., Gen. Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), ¶ 12(b)(ii), U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000) [hereinafter Gen. Comment No. 14: The Right to the Highest Attainable Standard of Health]; C.E.S.C.R., Gen. Comment No. 15: The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), ¶ 16(f), U.N. Doc. E/C.12/2002/11 (Jan. 20, 2003) [hereinafter Gen. Comment No. 15: The Right to Water]; C.E.S.C.R., Gen. Comment No. 21: Right of Everyone to Take Part in Cultural Life (Art. 15, Para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights), ¶¶ 16(b), 30, U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009) [hereinafter Gen. Comment No. 21: The Right of Everyone to Take Part in Cultural Life].

149. C.E.S.C.R., Gen. Comment No. 6: The Economic, Social and Cultural Rights of Older Persons, ¶ 16, U.N. Doc. E/1996/22 (Dec. 8, 1995).

150. Gen. Comment No. 5: Persons with Disabilities, *supra* note 148, ¶ 8.

151. Gen. Comment No. 14: The Right to the Highest Attainable Standard of Health, *supra* note 148, ¶ 36.

billion people without access to an adequate daily water supply are rural dwellers.<sup>152</sup>

In 2003, a new reference first appeared in General Comment No. 15 on the right to water, calling for special attention to “rural and deprived urban areas.”<sup>153</sup> Acknowledging that the human right to water applies to everyone, the CESCR called on states parties to give special attention to groups that have traditionally had difficulty accessing this right.<sup>154</sup> This language also appears in General Comment No. 19 on social security adopted in 2007,<sup>155</sup> and General Comment No. 21 on the right to take part in cultural life adopted in 2009.<sup>156</sup>

In contrast to these examples of naming rurality, the 1999 General Comment on food, although it tackles questions closely related to rural ways of life and rural development, does not differentiate between urban and rural. It does acknowledge that the right to food is “inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all.”<sup>157</sup> The CESCR goes out of its way to note that problems related to the right to food “also exist in some of the most economically developed countries.”<sup>158</sup> There is mention of the particular situation of Indigenous Peoples and the

152. Gen. Comment No. 15: The Right to Water, *supra* note 148, ¶ 1 n.1.

153. *Id.* ¶¶ 16(c), 26, 29. General Comment No. 15 requires that “[r]ural and deprived urban areas have access to properly maintained water facilities” and notes that “traditional water sources in rural areas should be protected from unlawful encroachment and pollution.” *Id.* ¶ 16(c).

154. *See id.* ¶ 16(c).

155. *See* C.E.S.C.R., Gen. Comment No. 19: The Right to Social Security (Art. 9), ¶ 49, U.N. Doc. E/C.12/GC/19 (Feb. 4, 2008) (asserting that the obligation of states parties to ensure public awareness concerning access to social security applies “particularly in rural and deprived urban areas”).

156. *See* Gen. Comment No. 21: Right of Everyone to Take Part in Cultural Life, *supra* note 148, ¶ 53 (asserting that the obligation of states parties to promote awareness concerning the right to participate in cultural life applies “particularly in rural and deprived urban areas”).

157. C.E.S.C.R., Gen. Comment No. 12: The Right to Adequate Food (Art. 11), ¶ 4, U.N. Doc. E/C.12/1999/5 (May 12, 1999).

158. *Id.* ¶ 5.

connection between the right to food and access to their ancestral lands.<sup>159</sup> The CESCR calls on states parties to prevent discrimination through

guarantees of full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families . . . ; maintaining registries on rights in land (including forests).<sup>160</sup>

In this way the Committee focuses attention on rural women without naming them as such.

Other references to rural livelihoods include General Comment No. 15 on the right to water, which notes the importance of water to agriculture for the purpose of realizing the right to food.<sup>161</sup> The Committee instructs states parties that

[a]ttention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence,” States parties should ensure that there is adequate access to water for subsistence farmer and for securing the livelihoods of indigenous peoples.<sup>162</sup>

Likewise, General Comment No. 16 on gender equality recognizes the rights of “rural women,” particularly, “to organize and join workers’ associations that address their specific concerns” and mentions equality in land rights to “ensure that women have access to or control over means of food

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159. *See id.* ¶ 13.

160. *Id.* ¶ 26.

161. Gen. Comment No. 15: The Right to Water, *supra* note 148, at ¶ 7.

162. *Id.*



production.”<sup>163</sup> General Comment No. 17 on scientific progress asserts that states have “a duty to prevent unreasonably high costs for access to . . . plant seeds or other means of food production.”<sup>164</sup> General Comment No. 18 on the right to work includes mention of agricultural workers and migrant workers.<sup>165</sup> General Comment No. 19 provides that “[s]tates parties should also consider schemes that provide social protection to individuals belonging to disadvantaged and marginalized groups, for example crop or natural disaster insurance for small farmers.”<sup>166</sup> With the exception of the recognition of “rural women” in General Comment No. 16,<sup>167</sup> rural communities were nameless and not identified as such, although some important provisions related to traditional rural livelihoods were recognized.

There were no General Comments adopted between 2009 and 2016, and there has been a noticeable shift in that framing after that period. By 2016, the global agrarian movements had already launched and advanced significantly in the process of drafting the UNDROP, and were also engaging with the treaty bodies.<sup>168</sup> As a result, for example, in 2016, CEDAW promulgated General Recommendation 34, which expanded the guidance on the rights of rural women.<sup>169</sup>

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163. Gen. Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights, *supra* note 142, ¶¶ 25, 28.

164. C.E.S.C.R., Gen. Comment No. 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of Which He or She Is the Author (Article 15, Paragraph 1 (c), of the Covenant), ¶ 35, U.N. Doc. E/C.12/CH/17 (Jan. 12, 2006).

165. C.E.S.C.R., The Right to Work: Gen. Comment No. 18, ¶¶ 10, 18, U.N. Doc. E/C.12/GC/18 (Feb. 6, 2006).

166. Gen. Comment No. 19: The Right to Social Security (Art. 9), *supra* note 155, ¶ 28.

167. *See supra* note 163 and accompanying text.

168. *See* Claeys, *supra* note 20, at 118–27.

169. *See generally* Comm. on the Elimination of Discrimination Against Women, Gen. Recommendation No. 34 on the Rights of Rural Women, U.N. Doc. CEDAW/C/GC/34 (2016).

Starting in 2016, there was an evolution in the language used by the Committee—and arguably a substantive shift in the selection of themes. In terms of language, there was a notable change from primarily acknowledging rural-urban difference to references to small-scale farmers, agricultural workers, the peasants’ movement, and “peasants and other persons working in rural areas”—the exact language from the UNDROP.<sup>170</sup> Drawing on the distinction highlighted by Lisa Pruitt, in this case there is a trend away from generalized references to “rural areas,” and instead more intentional consideration of rural people, and specifically rural workers and rural livelihoods.<sup>171</sup>

In terms of their topics, the themes of the post-2016 block of General Comments were reproductive health and rights,<sup>172</sup> the right to just and favorable conditions of work,<sup>173</sup> state obligations under the ICESCR in the context of business activities,<sup>174</sup> and the right to the benefits of scientific process, including seeds.<sup>175</sup> The two Comments that are currently under

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170. Human Rights Council Res. 39/12, *supra* 94, at 2 (recognizing “the special relationship and interaction between peasants and other people working in rural areas, and the land, water and nature to which they are attached and on which they depend for their livelihood”).

171. See Pruitt, *Deconstructing CEDAW’s Article 14*, *supra* note 24, at 391–93.

172. C.E.S.C.R., Gen. Comment No. 22 on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/22 (Jan. 12, 2016) [hereinafter Gen. Comment No. 22 on the Right to Sexual and Reproductive Health].

173. C.E.S.C.R., Gen. Comment No. 23 on the Right to Just and Favourable Conditions of Work (Article 7 of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/23 (Apr. 7, 2016) [hereinafter Gen. Comment No. 23 on the Right to Just and Favourable Conditions of Work].

174. C.E.S.C.R., Gen. Comment No. 24 on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, U.N. Doc. E/C.12/GC/24 (Aug. 10, 2017) [hereinafter Gen. Comment No. 24 on State Obligations in the Context of Business Activities].

175. C.E.S.C.R., Gen. Comment No. 25 on Science and Economic, Social and Cultural Rights (Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), U.N. Doc. E/C.12/GC/25

debate at the Committee are on land and on sustainable development.

General Comment No. 22 on reproductive health and rights acknowledges rurality separately from deprived urban areas, but instead as a priority mention of “rural and remote areas”<sup>176</sup> and ensuring geographic reach and access.<sup>177</sup> The paragraphs on intersectional discrimination do not specifically mention rurality or go beyond reciting the CDESCR grounds.<sup>178</sup> The Comment does emphasize that “[e]liminating systemic discrimination will also frequently require devoting greater resources to traditionally neglected groups.”<sup>179</sup>

General Comment No. 23 calls on states to monitor indicators related to just and favorable conditions of work that are disaggregated “by sex and other relevant grounds such as age, disability, nationality and urban/rural location.”<sup>180</sup> The Comment acknowledges self-employed workers, noting that small-scale farmers “deserve particular attention,”<sup>181</sup> as well as agricultural workers, and “women agricultural workers” in particular.<sup>182</sup>

By the 2017 General Comment on business activities, the CDESCR had taken up the language from the process that would lead to the UNDROP, specifically referencing “peasants, fisherfolk and other people working in rural areas” among the groups who are disproportionately affected by the adverse

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(Apr. 30, 2020) [hereinafter Gen. Comment No. 25 on Science and Economic, Social and Cultural Rights].

176. Gen. Comment No. 22 on the Right to Sexual and Reproductive Health, *supra* note 172, ¶¶ 16, 28.

177. *See id.* ¶¶ 14, 16, 46.

178. *Compare id.* ¶¶ 16–17 (listing potential grounds of intersectional discrimination in the context of sexual and reproductive health), *with* ICDESCR, *supra* note 15, at art. 2(2) (listing prohibited grounds of discrimination).

179. Gen. Comment No. 22 on the Right to Sexual and Reproductive Health, *supra* note 172, ¶ 31.

180. Gen. Comment No. 23 on the Right to Just and Favourable Conditions of Work, *supra* note 173, ¶ 55.

181. *Id.* ¶ 47(g).

182. *Id.* ¶ 47(h).

impact of business activities.<sup>183</sup> In its acknowledgement of “intersectional and multiple discrimination,” the CESCR notes as an example that investment-linked evictions and displacements often result in physical and sexual violence against, and inadequate compensation and additional burdens related to resettlement for, women and girls.<sup>184</sup> The Comment goes on to speak to the harassment of “leaders of peasant movements”<sup>185</sup> and the impact of intellectual property rights on access “to productive resources such as seeds, access to which is crucial to the right to food and to farmers’ rights.”<sup>186</sup>

This stands in contrast to the 2018 HRC General Comment on the right to life, which did mention similar trends but did not name peasants or other rural groups as a listed subgroup for particular attention.<sup>187</sup> Compared to the General Comments of the HRC, the CESCR’s General Comments have offered much more guidance and many reference points to address rural-urban disparities, deprivation, or lack of access in rural areas, and also differential consideration of rural livelihoods and ways of life.

### C. Individual Complaints and State Reviews

The Optional Protocol to the ICESR was adopted in 2008 and entered into force in 2013, allowing the CESCR to start hearing individual complaints.<sup>188</sup> Despite the inclusion and

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183. Gen. Comment No. 24 on State Obligations in the Context of Business Activities, *supra* note 174, ¶ 8.

184. *Id.* ¶ 9.

185. *Id.* ¶ 48.

186. *Id.* ¶ 24.

187. Compare *supra* notes 183–186 and accompanying text, with *supra* notes 92–99 and accompanying text.

188. Malcolm Langford et. al, *Introduction*, to THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: A COMMENTARY, *supra* note 147, at 1. The inquiry procedure established by the Optional Protocol could be a useful mechanism, but practice under that process is not considered here given the confidential nature of the proceedings. See Donna J. Sullivan, *The Inquiry Procedure*, in THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, *supra* note 147, at 124, for discussion on the potential usefulness of the inquiry procedure, particularly for violations “that involve multiple rights, multiple

evolution of rural-specific and rurally-relevant analysis in the CESCR's General Comments, to date none of the individual complaints deemed admissible involve a person living or working in a rural area.

The CESCR's concluding observations from its reviews of states parties, however, offer a wide range of analysis touching on rurality as an axis of inequality. As the following review of concluding observations between 2015 and 2022 shows, this consideration of rurality ranges from simple summary statements observing rural and urban disparities to pointed and substantive questions of distributive justice.

In comparison to the HRC, the CESCR frequently lists people living in rural areas as a particular population deserving of special attention and targeted measures.<sup>189</sup> For example, in its review of Colombia, the Committee recommended that the country adopt specific measures “for the elimination of multiple, intersectional discrimination against women living in rural areas and indigenous and Afro-Colombian women” and to “allocat[e] sufficient resources for implementation.”<sup>190</sup> The Committee has also taken on rural-specific situations related to

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events, multiple and intersectional forms of discrimination, multiple causes, and/or multiple actors.”

189. C.E.S.C.R., Concluding Observations on the Third Periodic Rep. of Bosnia and Herzegovina, ¶ 48, U.N. Doc. E/C.12/BIH/CO/3 (Nov. 11, 2021); C.E.S.C.R., Concluding Observations on the Third Periodic Rep. of the Plurinational State of Bolivia, ¶¶ 42–45, 52–59, U.N. Doc. E/C.12/BOL/CO/3 (Nov. 5, 2021); C.E.S.C.R., Concluding Observations on the Fifth Periodic Rep. of Nicaragua, ¶ 35, U.N. Doc. E/C.12/NIC/CO/5 (Nov. 11, 2021).

190. C.E.S.C.R., Concluding Observations on the Sixth Periodic Rep. of Colombia, ¶ 26(b), U.N. Doc. E/C.12/COL/CO/6 (Oct. 6, 2017).

the digital divide,<sup>191</sup> food,<sup>192</sup> water,<sup>193</sup> access to cultural life,<sup>194</sup> unemployment,<sup>195</sup> birth registration,<sup>196</sup> environmental degradation,<sup>197</sup> and housing.<sup>198</sup>

Many of the reviews specifically acknowledge rural poverty and/or urban-rural inequality in terms of poverty rates.<sup>199</sup> This

191. See, e.g., C.E.S.C.R., Concluding Observations on the Fourth Periodic Rep. of Cameroon, ¶ 64, U.N. Doc. E/C.12/CMR/CO/4 (Mar. 25, 2019) (noting concerns over the low levels of Internet access in the country, “especially in rural areas”).

192. See, e.g., C.E.S.C.R., Concluding Observations on the Initial Rep. of Mali, ¶¶ 38–39, U.N. Doc. E/C.12/MLI/CO/1 (Nov. 6, 2018) (noting concern over high rates food insecurity and chronic malnutrition, “particularly in rural areas”).

193. See, e.g., C.E.S.C.R., Concluding Observations on the Third Periodic Rep. of Slovakia, ¶¶ 33–34, U.N. Doc. E/C.12/SVK/CO/3 (Nov. 14, 2019) (noting concern over lack of access to safe water for people “living in rural areas”); C.E.S.C.R., Concluding Observations on the Initial Rep. of Cabo Verde, ¶ 52, U.N. Doc. E/C.12/CPV/CO/1 (Nov. 27, 2018) (noting concerns “that many people living in rural areas have no access to the public water supply”).

194. See, e.g., C.E.S.C.R., Concluding Observations on the Fifth Periodic Rep. of Uruguay, ¶¶ 59–60, U.N. Doc. E/C.12/URY/CO/5 (July 20, 2017) (noting concern over “disparities that exist between rural and urban areas” regarding “participation in cultural life and access to cultural infrastructure”).

195. See, e.g., C.E.S.C.R., Concluding Observations on the Third Periodic Rep. of Benin, ¶¶ 23–24, U.N. Doc. E/C.12/BEN/CO/3 (Mar. 27, 2020) (noting concern over the disproportionate effects of unemployment on people living in rural areas); Concluding Observations on the Sixth Periodic Rep. of Colombia, *supra* note 190, ¶ 28 (same).

196. See, e.g., C.E.S.C.R., Concluding Observations on the Fourth and Fifth Periodic Rep. of Angola, ¶ 42, U.N. Doc. E/C.12/AGO/CO/4-5 (July 15, 2016) (urging an increase in birth registration, particularly in rural areas).

197. See, e.g., C.E.S.C.R., Concluding Observations on the Fourth Periodic Rep. of Ecuador, ¶ 53, U.N. Doc. E/C.12/ECU/CO/4 (Nov. 14, 2019) (urging Ecuador to protect the communities “most affected by the degradation of the environment, such as rural, Afro-descendent and indigenous communities”).

198. See, e.g., C.E.S.C.R., Concluding Observations on the Second Periodic Rep. of Kazakhstan, ¶ 42, U.N. Doc. E/C.12/KAZ/CO/2 (Mar. 29, 2019) (noting concern over the lack of measures taken to provide social housing “to disadvantaged and marginalized individuals and families, such as migrant workers and persons living in rural areas”).

199. Concluding Observations on the Fifth Periodic Rep. of Nicaragua, *supra* note 189, ¶ 34; Concluding Observations on the Third Periodic Rep. of the Plurinational State of Bolivia, *supra* note 189, ¶ 42; C.E.S.C.R., Concluding Observations on the Initial Rep. of Guinea, ¶ 37, U.N. Doc. E/C.12/GIN/CO/1 (Mar. 30, 2020); Concluding Observations on the Fourth

is commonly followed with a simple recommendation for the country to see the CESCR's statement on poverty<sup>200</sup> and to adopt a human-rights-based approach.<sup>201</sup> Less frequent are direct discussions of the links between intractable rural poverty and the fiscal and developmental policy choices driving and/or sustaining those conditions.

One exception is the review of South Africa in 2018, in which the CESCR focused on rural and urban disparities and the lack of transformation to address these, noting that

the persistence of such inequalities signals that the model of economic development pursued by the State party remains insufficiently inclusive. The Committee is deeply concerned about such unacceptably high levels of economic and social inequality. Although it welcomes the National Treasury's introduction in 2017 of rurally focused indicators, it regrets the significant geographical disparities in the State party, both between provinces and between rural and urban municipalities. The State party's fiscal policy, particularly as it relates to personal and corporate income taxes, capital gains and transaction taxes, inheritance tax and property tax, does not enable it to mobilize the resources required to

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Periodic Rep. of Ecuador, *supra* note 197, ¶ 41; Concluding Observations on the Sixth Periodic Rep. of Colombia, *supra* note 190, ¶ 28; C.E.S.C.R., Concluding Observations on the Fifth Periodic Rep. of Australia, ¶ 40, U.N. Doc. E/C.12/AUS/CO/5 (July 11, 2017).

200. Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights, transmitted by Letter dated 11 May 2001 from the Chairperson of the Committee on Economic, Social and Cultural Rights Addressed to the Secretary-General of the U.N. Conference on Trade and Development, U.N. Doc. A/CONF.191/BP/7 (May 13, 2001).

201. *See, e.g.*, Concluding Observations on the Fifth Periodic Rep. of Nicaragua, *supra* note 189, ¶ 35; Concluding Observations on the Third Periodic Rep. of the Plurinational State of Bolivia, *supra* note 189, ¶ 43; Concluding Observations on the Initial Rep. of Guinea, *supra* note 199, ¶ 38; Concluding Observations on the Fourth Periodic Rep. of Ecuador, *supra* note 197, ¶ 42; Concluding Observations on the Sixth Periodic Rep. of Colombia, *supra* note 190, ¶ 48; Concluding Observations on the Fifth Periodic Rep. of Australia, *supra* note 199, ¶ 40.

reduce such inequalities; and it is not sufficiently progressive in that regard.<sup>202</sup>

In its analysis, the CESCR also drew the connection with race and gender, referencing the CEDAW Committee's General Recommendation No. 34 of the rights of rural women.<sup>203</sup>

From 2015 to 2022, rurality or rural livelihoods were referenced explicitly far more often in the reviews of developing countries. There were only nine examples in that timeframe of the CESCR making any mention of rurality for a country on the World Bank's high-income list.<sup>204</sup> Of the most extensive, the review of France included mention of the limited access to health services in rural areas<sup>205</sup> and the need for "targeted measures to support the women who are at the greatest disadvantage in the labour market, including immigrant women, women living in priority urban zones and women residing in rural areas."<sup>206</sup> The review of Germany included consideration of the country's extraterritorial obligations,

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202. C.E.S.C.R., Concluding Observations on the Initial Report of South Africa, ¶ 16, U.N. Doc. E/C.12/ZAF/CO/1 (Nov. 29, 2018).

203. *See id.* ¶¶ 61–62 (noting with concern that South African women "own[ed] only 13 per cent of agricultural land" and urging South Africa to take steps to ensure that "women have equal access to land and land ownership, consistent with" the CEDAW Committee's General Recommendation No. 34).

204. Concluding Observations on the Fifth Periodic Rep. of Australia, *supra* note 199, ¶¶ 34, 40; C.E.S.C.R., Concluding Observations on the Fifth Periodic Rep. of Belgium, ¶¶ 50–51, U.N. Doc. E/C.12/BEL/CO/5 (Mar. 26, 2020); C.E.S.C.R., Concluding Observations on the Fourth Periodic Rep. of France, ¶¶ 21(a), 44–45, U.N. Doc. E/C.12/FRA/CO/4 (July 13, 2016); C.E.S.C.R., Concluding Observations on the Sixth Periodic Rep. of Germany, ¶¶ 12–13, U.N. Doc. E/C.12/DEU/CO/6 (Nov. 27, 2018); C.E.S.C.R., Concluding Observations on the Fifth Periodic Rep. of Italy, ¶ 59, U.N. Doc. E/C.12/ITA/CO/5 (Oct. 28, 2015); C.E.S.C.R., Concluding Observations on the Second Periodic Rep. of Latvia, ¶ 38, U.N. Doc. E/C.12/LVA/CO/2 (Mar. 30, 2021); C.E.S.C.R., Concluding Observations on the Sixth Periodic Rep. of Sweden, ¶ 38(b), U.N. Doc. E/C.12/SWE/CO/6 (July 14, 2016); C.E.S.C.R., Concluding Observations on the Sixth Periodic Rep. of Poland, ¶¶ 39, 55, 56(a), 56(e), U.N. Doc. E/C.12/POL/CO/6 (Oct. 26, 2016); Concluding Observations on the Fifth Periodic Rep. of Uruguay, *supra* note 194, ¶¶ 34–35, 44–45, 50(a)–(b), 51(a), 59–60.

205. *See* Concluding Observations on the Fourth Periodic Rep. of France, *supra* note 204, ¶¶ 44–45.

206. *Id.* ¶ 21(a).



noting that “the State party does not carry out human rights impact assessments in relation to agricultural exports to low-income, food-deficit countries” and expressing the CESCR’s concern that “exports of foodstuffs to developing countries may have a negative impact on the livelihoods of small-scale farmers in those countries.”<sup>207</sup> Sweden and Italy were both encouraged to include disaggregated data that include urban and rural difference.<sup>208</sup>

In the 2020 review of Belgium, small-scale farming received special attention.<sup>209</sup> Although no mention was made to the UNDROP, the CESCR expressed its continued concern about the reduction in small-scale farming in the country, as well as the difficulties facing farmers, and recommended additional measures to protect and support small-scale farming.<sup>210</sup>

A stronger embrace of UNDROP is one key way in which the CESCR could increase its robust reflection on rurality and human rights. Numerous CESCR reviews conducted after the approval and adoption of the UNDROP raised issues for which it would have been fitting to reference the Declaration, but the CESCR did not.<sup>211</sup> As of this writing, the Committee has only

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207. Concluding Observations on the Sixth Periodic Rep. of Germany, *supra* note 204, ¶ 12.

208. Concluding Observations on the Sixth Periodic Rep. of Sweden, *supra* note 204, ¶ 38; Concluding Observations on the Fifth Periodic Report of Italy, U.N. Doc. E/C.12/ITA/CO/5 ¶ 59 (Oct. 28, 2015).

209. Concluding Observations on the Fifth Periodic Rep. of Belgium, *supra* note 204, ¶¶ 50–51.

210. *Id.*

211. In its reviews of Benin, the Democratic Republic of the Congo, Azerbaijan, Belgium, Ecuador, Cameroon, and Cabo Verde, the CESCR made observations and recommendations related to the rights of peasants and other rural workers but missed or passed on the opportunity to reference the newly adopted and approved UNDROP. Concluding Observations on the Third Periodic Rep. of Benin, *supra* note 195, ¶¶ 50–51; C.E.S.C.R., Concluding Observations on the Sixth Periodic Rep. of the Democratic Republic of the Congo, ¶ 49, U.N. Doc. E/C.12/COD/CO/6 (Mar. 28, 2022); C.E.S.C.R., Concluding Observations on the Fourth Periodic Rep. of Azerbaijan, ¶ 41(c), U.N. Doc. E/C.12/AZE/CO/4 (Nov. 3, 2021); Concluding Observations on the Fifth Periodic Rep. of Belgium, *supra* note 204, ¶¶ 50–51; Concluding Observations on the Fourth Periodic Rep. of Ecuador, *supra* note 197, ¶¶ 43–44; Concluding Observations on the Fourth Periodic

referenced UNDROP once in its concluding observations: in the 2020 review of Guinea.<sup>212</sup> In that instance, the CESCR provided detailed recommendations relating to differential and disproportionate challenges in rural areas<sup>213</sup> and scrutinized the country's efforts to advance extractive development.<sup>214</sup> The CESCR recommended that Guinea "progressively guarantee all peasants access to support programmes and agroecological solutions without discrimination, respecting the choice of each person, in accordance with the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas."<sup>215</sup>

### CONCLUSION

Although previously unsystematized and thus largely invisible to researchers and advocates, there is an important body of work from the Human Rights Committee and the Committee on Economic, Social and Cultural Rights typifying the myriad ways that rurality intersects with other identities and power dynamics to create particular human rights deprivations, violations, and challenges.<sup>216</sup> The CESCR has long referenced rural-urban difference, and the global agrarian movements have impacted the work of the Committee in noticeable and influential ways.<sup>217</sup> The HRC, by comparison, does not have explicitly rural-specific references in its General Comments,<sup>218</sup> but advocates have achieved important advances across its concluding observations and with individual complaints.<sup>219</sup> In the work of both bodies there is a robust basis

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Rep. of Cameroon, *supra* note 191, ¶¶ 16, 51; Concluding Observations on the Initial Rep. of Cabo Verde, *supra* note 193, ¶ 9.

212. Concluding Observations on the Initial Rep. of Guinea, *supra* note 199, ¶ 40(a).

213. *Id.* ¶¶ 15, 25, 32, 38, 40, 46, 48.

214. *See id.* ¶ 16.

215. *Id.* ¶ 40(a).

216. *See supra* Parts II–III.

217. *See supra* Part II.B.

218. *See supra* Part I.B.

219. *See supra* Parts I.C–D.

for drawing on spatial injustices together with other factors to better diagnosis and address human rights challenges. The normative and probative developments that do exist are traceable to the sophisticated activism of rural communities and their advocacy allies over decades.

Yet it is clear that the U.N. treaty bodies considered here make explicit the rural difference most often when (i) speaking of underdevelopment, deprivations, or limited access to services and resources; and (ii) when referencing conditions in developing countries. Although there are important pronouncements that relate to the human rights implications of the structural and systemic causes of many of the harms inflicted on rural communities, these are described neutrally and rarely acknowledge exactly how they impact rural communities and livelihoods and privilege a particular and urban-centric development model. At the same time, rural communities in the Global North and the systemic challenges that they face in the protection and realization of their human rights are almost entirely absent from this body of work. Researchers and advocates should draw on and deepen this engagement with rurality.