

RESEARCH BRIEF

THE IMPLEMENTATION OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS

KEY MESSAGES

- The adoption of the United Nations (UN) Declaration on the rights of peasants and other people working in rural areas (UNDROP) by the UN General Assembly in 2018 is the result of almost 20 years of mobilisation by La Via Campesina and its allies, and of 6 years of negotiation at the UN Human Rights Council. It aims to respond to the multiple forms of discrimination faced by peasants and other people working in rural areas, who are the first victims of extreme poverty and hunger, and to protect and promote their rights and dignity.
- The implementation of the UNDROP represents a unique opportunity to re-balance power relations in rural areas, and to guarantee that states will respect, protect and fulfil the rights of peasants and other people working in rural areas, who have too often been marginalised within international, regional and national laws and policies. It is key for redressing various forms of discrimination and historical disadvantage that have affected peasants and other people working in rural areas for too long.
- In the implementation of the UNDROP, particular attention shall be paid to the rights and special needs of those who have historically been discriminated against, including older persons, youth, children and persons with disabilities, and women, who play a key role in local and global food security, but are the first victims of discrimination and with girls represent 70% of the world's hungry.
- The UNDROP builds on, and includes agreed language taken from a number of binding international treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on Biological Diversity and its Protocols, and the International Treaty on Plant Genetic Resources for Food and Agriculture. States must therefore play a key role in its implementation, in line with the numerous UNDROP provisions defining their obligations. International and regional organizations shall also contribute to the implementation of the UNDROP.
- The full and meaningful participation of peasants and other people working in rural areas shall be guaranteed in the implementation of the UNDROP. They shall participate, directly and/or through their representative organizations, in all decision-making processes that may affect their lives, lands and livelihoods. The establishment and growth of strong and independent organizations of peasants and other people working in rural areas shall also be respected and supported by states. And UN specialized agencies, funds and programmes, as well as other intergovernmental organizations, shall consider ways to ensure their full participation in the implementation of the UNDROP. At global level, a UN Voluntary Fund for peasants and other people working in rural areas should be established to support their participation in the activities of the UN system.
- Accountability for violations of the rights enshrined in the UNDROP shall be increased by the establishment of new human rights monitoring mechanisms, and the reinforcement of existing ones at national, regional and international levels. Monitoring mechanisms should be available to monitor the implementation of the UNDROP at all levels.

MARCH 2019 | BY CHRISTOPHE GOLAY

INTRODUCTION

The United Nations (UN) General Assembly adopted the UN Declaration on the rights of peasants and other people working in rural areas (UNDROP) in 2018, by a large majority of the UN Member States – with 121 voting in favour, 8 against, and 54 abstentions. The adoption of this new instrument is the result of almost 20 years of mobilisation by La Via Campesina and its allies, and 6 years of negotiation at the UN Human Rights Council. While it is now time to take steps to put the new UN Declaration into practice, this publication focuses on the role of states and international and regional organizations in its implementation. The first part of this Research Brief examines the lessons learned from the implementation of UN Declaration on the rights of indigenous peoples (UNDRIP).

LESSONS LEARNED FROM THE IMPLEMENTATION OF THE UNDRIP

The UN General Assembly adopted the UNDRIP in 2007, after 25 years of mobilisation by indigenous peoples' organizations and their supporters, and 11 years of negotiations at the Human Rights Council and General Assembly. At the UN General Assembly, the UNDRIP was adopted by a large majority of UN Member States, with 143 voting in favour, 11 abstaining, and 4 against (Australia, Canada, New Zealand, and United States of America). Since its adoption, the four states that voted against the UNDRIP have supported its implementation, and a large number of initiatives have been taken at local, national, regional and international levels to realise the provisions contained in the Declaration.

FOR THE UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES, VICTORIA TAULI-CORPU:

'The effective implementation of the rights of indigenous peoples requires States to develop an ambitious programme of reforms at all levels to remedy past and current injustices. This should involve all the branches of the State, including the executive, legislative and judiciary, and implies a combination of political will, legal reform, technical capacity and financial commitment.'

A number of states have revised their legislative frameworks to enshrine the rights of indigenous peoples within their domestic law. Bolivia included the UNDRIP in its legal system through the adoption of a law in 2007, and

its Constitution, adopted in 2009, recognizes numerous rights for indigenous peoples. In addition, specific laws were adopted to implement particular articles of the UNDRIP, such as the law on traditional medicine and the law on mother earth. Bolivia has also created dedicated institutions to implement these laws, such as the Vice Ministry on traditional medicine. As a result, indigenous peoples in Bolivia became central, individual and collective subjects of rights. Domestic courts have also protected indigenous peoples' rights in a number of cases, directly applying the UNDRIP, or using it to interpret rights recognized in domestic law or in other international instruments. This is the case, for example, in Colombia, where the Constitution also recognizes several rights for indigenous peoples, and where the 2016 peace accords have been translated into 56 indigenous languages.

At regional level, the Inter-American Commission on Human Rights, the Inter-American Court on Human Rights, and the African Commission on Human and Peoples' Rights have played a key role in protecting the rights of indigenous peoples, and in particular their rights to lands, territories and natural resources, to consultation and consent, and to political participation. In 1990, the Inter-American Commission on Human Rights established the mandate of the Rapporteur on the rights of indigenous peoples (one of the members of the Commission) to focus special attention on indigenous peoples in America. In 2001, the African Commission on Human and Peoples' Rights established its Working Group on indigenous peoples/communities in Africa, composed of 3 members of the African Commission.

At the international level, three mechanisms have been established within the UN system with a specific mandate to protect the rights of indigenous peoples and to promote the implementation of the UNDRIP: the UN Permanent Forum on indigenous issues created in 2001 by ECOSOC, composed of 16 experts (half of whom are proposed by states and the other half proposed by indigenous peoples' organizations), the UN Special Rapporteur on the rights of indigenous peoples, an independent expert whose mandate was established in 2001 by the UN Human Rights Commission, and the Expert Mechanism on the rights of indigenous peoples, created in 2007 by the UN Human Rights Council and composed of 7 independent experts. Since 1985, the UN Voluntary Fund for indigenous peoples has also facilitated the participation of indigenous peoples in different activities of the UN system. The UNDRIP has been mainstreamed into the activities of UN specialized agencies, programmes and funds, and in the activities of other international and regional organizations. The UN

Permanent Forum on indigenous issues has played a key role in this mainstreaming, including through the activities of the Inter-Agency Support Group on indigenous issues.

Despite all these efforts, gaps remain in the implementation of UNDRIP, and violations of the rights of indigenous peoples are widespread around the world. In 2014, the UN Special Rapporteur on the rights of indigenous peoples identified five obstacles to the implementation of the UNDRIP: the failure or reluctance of governments to recognize indigenous peoples, challenges in the development of practical implementation measures, reconciliation and redress for historical wrongs yet to be completed, ongoing negative attitudes towards indigenous peoples on the part of the broader societies in which they live, and social and economic conditions preventing the full exercise of indigenous peoples' rights.

Some of the lessons learned from this situation are that while the implementation of the UNDRIP requires national policies, programmes, institutions and legal reforms that are specific to indigenous peoples, indigenous peoples' rights shall also be mainstreamed into the different sectors of government, for example those in charge of culture, education, health and water, in the wider policy-making processes, and in the establishment of programmatic priorities. Governments shall also make sure that the different actors involved are aware of and understand the UNDRIP. They shall raise awareness and provide or support technical training to government officials, members of the legislative branch and national human rights institutions, judicial authorities and all other relevant actors, including civil society and indigenous peoples themselves.

FOR PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS, WITH THEIR PARTICIPATION

The UNDROP expresses deep concern at the structural discrimination faced by peasants and other people working in rural areas, who disproportionately suffer from, inter alia, poverty, hunger and malnutrition, forced evictions and displacements (Preamble and art. 3.3), and it recognizes their right to participation in decision-making processes to reverse that discrimination (art. 2.3 and 10.1).

To guarantee that enabling right, the UNDROP provides that states shall promote participation, directly and/or through their representative organizations, by peasants and other people working in rural areas in decision-making

There will be no implementation of the UNDROP without the full realization of the right of peasants and other people working in rural areas to participation

processes that may affect their lives, lands and livelihoods, such as the elaboration of international agreements and standards (art. 2.4), food safety, labour and environmental standards (art. 10.2), legislation covering the evaluation and certification of their products (article 11.3), seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws (art. 19.8), and the undertaking of agricultural research and development (art. 19.7).

States shall also respect the establishment and growth of strong and independent organizations of peasants and other people working in rural areas (art. 10.2), adopt measures to ensure that they have access to relevant, transparent, timely and adequate information in a language and form and through means adequate to their cultural methods (art. 11.2), and facilitate and ensure their full and equitable access and participation in local, national and regional markets to sell their products at prices that allow them and their families to attain an adequate standard of living (art. 16.3).

The UNDROP also provides that states shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems that promote and protect the rights contained in the UNDROP (art. 15.5). In the implementation of the UNDROP, specialized agencies, funds and programmes of the UN system, and other intergovernmental organizations, including international and regional financial organizations, shall also consider ways to ensure the participation of peasants and other



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people working in rural areas (art. 27.1).

THE ROLE OF STATES

States have a key role to play in the implementation of the UNDROP. This role is underlined in the numerous provisions of the UNDROP that define their obligations.

The UNDROP provides that states shall respect, protect and fulfil the rights of peasants and other people working in rural areas, and shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights set forth in the UNDROP that cannot be immediately guaranteed (art. 2.1). They shall also ensure the consistency of international agreements and standards to which they are party with the UNDROP (art. 2.4), and establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the new UN Declaration (article 15(5)). And they shall recognize the importance of international cooperation in support of national efforts aimed at implementing the UNDROP (art. 2.6).

States obligations to ensure the consistency of their national laws and policies, and international agreements and standards to which they are party with the UNDROP is grounded in the primacy to be given to human rights norms in international and national law (UN Charter, art. 1.3, 55.c, 56, and 103). This is valid for all states, independently of the positions that they took when the UNDROP was adopted.

If we take the example of the right to seeds, these obligations entail that in elaborating new international agreements, and in interpreting and implementing the international obligations that they have already undertaken, including those protecting intellectual property rights, states shall make sure that they do not infringe, but facilitate the realization of peasants' right to seeds. At national level, states shall establish mechanisms to ensure the coherence of their agricultural, economic and development policies with the realization of the right to seeds (art. 15.5), and they shall ensure that their seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants (art. 19.8).

In the implementation of the UNDROP, states shall pay particular attention to the rights and special needs of individuals and groups who have historically been

discriminated against, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple forms of discrimination (art. 2.2). States shall also take appropriate measures to eliminate conditions that cause or help to perpetuate discrimination, including multiple and intersecting forms of discrimination (art. 3.3). And they shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas, to promote their empowerment, and to ensure that they enjoy without discrimination all the human rights and fundamental freedoms set out in the UNDROP (art. 4.1 and 4.2).

To guarantee the exercise of the rights enshrined in the UNDROP without any discrimination, the UNDROP provides that states shall, inter alia, ensure fair wages and equal remuneration for work of equal value, without distinction of any kind (art. 16.6), remove and prohibit all forms of discrimination relating to the right to land, including those resulting from change of marital status, lack of legal capacity or lack of access to economic resources (art. 17.2), and guarantee access to health facilities, goods and services in rural areas on a non-discriminatory basis (art. 23.3).

Following what Bolivia did to protect the rights of indigenous peoples, states should integrate the whole UNDROP within their domestic law, for example by integrating it in a law of application, or integrate specific rights enshrined in the UNDROP in their Constitutions or national laws. States should also create institutions to ensure the consistency of their laws, policies and programmes with the UNDROP. Following the example of many countries that established national councils on food and nutritional security, states should establish national councils on the rights of peasants and other people working in rural areas, with adequate representation of the different sectors of the government, and of organizations of peasants and other people working in rural areas.

To ensure that states respect the rights of peasants and other people working in rural areas, the UNDROP provides that they shall, inter alia, not subject them to arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, and not held them in slavery or servitude (art. 6.2). They shall also recognize the natural commons and their related systems of collective use and

States shall ensure the consistency of their national laws and policies and of international agreements and standards to which they are party with the UNDROP

management (art. 17.3).

To protect the rights of peasants and other people working in rural areas, states shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights enshrined in the UNDROP (art. 2.5). Such measures include the need to protect peasants and other people working in rural areas against arbitrary or unlawful evictions and displacements (art. 17.3, 17.4 and 24.2), to ensure that no hazardous material, substance or waste is stored or disposed of on their land (art. 18.4), and to prevent risks arising from the development, handling, transport, use, transfer or release of any living modified organisms (art. 20.3). The UNDROP also provides that states shall protect children of peasants and other people working in rural areas from any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to a child's health or physical, mental, spiritual, moral or social development (art. 13.2).

Examples of ways in which states shall fulfil the rights of peasants and other people working in rural areas include their obligations to provide them with legal assistance (art. 12.3), to give priority to landless peasants, young people, small-scale fishers and other rural workers in the allocation of public lands, fisheries and forests (art. 17.6), to support peasant seed systems, and to promote the use of peasant seeds and agrobiodiversity (art. 19.6).

At national level, it is also essential that courts protect the rights of peasants and other people working in rural areas, by directly applying the UNDROP, or by using it to interpret rights recognized in domestic law or other international instruments. National human rights institutions should

New mechanisms should be established to monitor the UNDROP, similar to those that exist to monitor the UNDRIP



also include the monitoring of the UNDROP in their work, including through awareness raising activities, the analysis of the compatibility of laws with the UNDROP, the possibility to receive complaints about violations of the rights enshrined in the UNDROP, and the production of annual reports on the implementation of the UNDROP for national, regional and international bodies.

THE ROLE OF INTERNATIONAL AND REGIONAL ORGANIZATIONS

The UNDROP provides that UN specialized agencies, funds and programmes, and other intergovernmental organizations, including international and regional financial organizations, shall contribute to the full realization of the UNDROP, including through the mobilization of, inter alia, development assistance and cooperation (art. 27.1), and that they shall promote respect for and the full application of the UNDROP and follow up on its effectiveness (art. 27.2).

At the international level, the UN Human Rights Council should create a new Special Procedure – a UN Special Rapporteur or a UN Working Group composed of 5 independent experts – on the rights of peasants and other people working in rural areas.

It should also create a new subsidiary body, in the form of an Expert Mechanism on the rights of peasants and other people working in rural areas. It is also important that it integrates the UNDROP in its monitoring work, including the Universal Periodic Review, and that other UN human rights mechanisms, in particular the UN special procedures and treaty bodies, include the UNDROP in their work (their role in monitoring the implementation of the UNDROP will be the subject of another publication).

ECOSOC should create a UN Permanent Forum on peasants and other people working in rural areas following the example of the UN Permanent Forum on indigenous issues. This new body could be composed of 10 experts (half proposed by states and half proposed by organizations of peasants and other people working in rural areas). A UN Voluntary Fund for peasants and other people working in rural areas should also be established to support their participation in the activities of the UN system.

The Committee on World Food Security (CFS) shall integrate the implementation of the UN Declaration in its work, and if the Human Rights Council creates a new Special Procedure on the rights of peasants and other

people working in rural areas, its mandate holder(s) should become member of the CFS Advisory Group, with the same prerogatives as those already given to the UN Special Rapporteur on the right to food.

UN specialized agencies shall also include the implementation of the UNDROP in their work, and find opportunities to work together, as well as with organizations of peasants and other people working in rural areas for that purpose. These include the Food and Agriculture Organization of the UN (FAO), the International Fund for Agricultural Development (IFAD), the UN Development Programme (UNDP), the International Labour Organization (ILO), the World Health Organization (WHO), the UN Educational, Scientific and Cultural Organization (UNESCO), and the World Bank. The International Monetary Fund (IMF), the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO) shall also take the UNDROP into account in their work. And the UNDROP should be mainstreamed into the strategies aimed at achieving the Sustainable Development Goals (SDGs).

At regional level, parliamentary groups should be created on the rights of peasants and other people working in rural areas, and the promotion of these rights should be integrated in the work of parliamentary groups that are already established, such as the parliamentary fronts that aim to fight hunger in Latin America and Africa.

The European Parliament, which pushed European Union (EU) Member States to vote in favour of the adoption of the UNDROP, and the European Economic and Social Committee (EESC) which called on the European institutions and EU Member State governments to actively support the UNDROP in all future work leading up to its realization, should continue to promote the implementation of the UNDROP in Europe. In Africa, the implementation of the UNDROP should be integrated, inter alia, within the work of the Pan-African Parliamentary alliance on food security and nutrition. The Economic Community of West African States (ECOWAS) and the General Assembly of the Organization of American States (OAS), which have recognized the right to food sovereignty, should also promote the implementation of the UNDROP in their regions.

Regional bodies should also promote and protect specific rights enshrined in the UNDROP. For example, drawing inspiration from the African Union which has developed a progressive African Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources, other regional organizations should promote a better protection



of peasants' right to seeds.

It is also essential that regional human rights bodies, including the Inter-American Court and Commission on Human Rights, the African Commission and Court on Human and Peoples' Rights, the European Court on Human Rights, the European Committee of Social Rights, the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights, and the Arab Human Rights Committee protect the rights of peasants and other people working in rural areas. The African Commission on Human and Peoples' Rights should also establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create the mandate of a Rapporteur on the rights of peasants and other people working in rural areas.

CONCLUSIONS AND RECOMMENDATIONS

The system of human rights protection that has developed since the adoption of the Universal Declaration of Human Rights in 1948 has been enhanced in 2018 by a new instrument to protect the rights of peasants and other people working in rural areas, some of the most discriminated against and marginalized people in the world.

After the adoption of the UNDROP in 2018, it is crucial to make sure that states take all necessary steps to implement it, with the full and meaningful participation of peasants and other people working in rural areas, and with adequate support from international and regional organizations.

RECOMMENDATIONS

- States shall respect, protect and fulfil the rights of peasants and other people working in rural areas, and shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights set forth in the UNDROP that cannot be immediately guaranteed. They shall recognize the importance of international cooperation in support of national efforts aimed at implementing the UNDROP.
- States and international and regional organizations shall disseminate the UNDROP and promote understanding of and respect for its provisions. They shall provide or support technical training for government officials, members of the legislative branch, judicial authorities, national human rights institutions, and international and regional organizations, organizations of peasants and other people working in rural areas, non-governmental organizations, and all other relevant actors.
- States, international and regional organizations shall ensure the full and meaningful participation of peasants and other people working in rural areas in the implementation of the UNDROP, directly and/or through their representative organizations including in decision-making processes that may affect their lives, lands and livelihoods.
- States, international and regional organizations shall pay particular attention to the rights of individuals and groups who have historically been discriminated against, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple and intersectional forms of discrimination.
- States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas, to promote their empowerment, and to ensure that they enjoy without discrimination all the human rights and fundamental freedoms set out in the UNDROP.
- States shall respect and support the establishment and growth of strong and independent organizations of peasants and other people working in rural areas.
- States should integrate the whole UNDROP or specific rights that it enshrines in domestic law, by revising their Constitutions or developing new domestic laws.
- States shall ensure the consistency of their national laws and policies, and international agreements and standards to which they are parties with the UNDROP.
- States should establish national councils on the rights of peasants and other people working in rural areas, with adequate representation of the different sectors of the government, and of organizations of peasants and other people working in rural areas.
- States shall strengthen the role of national human rights institutions in promoting and protecting the rights of peasants and other people working in rural areas.
- States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights of peasants and other people working in rural areas.
- Domestic courts should protect the rights of peasants and other people working in rural areas, by directly applying the UNDROP, or by using it to interpret rights recognized in domestic law or other international instruments.

- National human rights institutions should include the monitoring of the UNDROP in their work, including through awareness raising activities, the analysis of the compatibility of laws with the UNDROP, the possibility to receive complaints about violations of the rights enshrined in the UNDROP, and the production of annual reports on the implementation of the UNDROP for national, regional and international bodies.
- UN specialized agencies, funds and programmes, and other intergovernmental organizations, including international and regional financial organizations, shall contribute to the full realization of the UNDROP, including through the mobilization of development assistance and cooperation, and they shall promote respect for and the full application of the UNDROP and follow up on its effectiveness.
- The UN Human Rights Council should create a new Special Procedure on the rights of peasants and other people working in rural areas, and a new subsidiary body, in the form of an Expert Mechanism on the rights of peasants and other people working in rural areas. It should also integrate the UNDROP in the UPR. Other UN human rights mechanisms should also include the UNDROP in their work.
- ECOSOC should create a UN Permanent Forum on peasants and other people working in rural areas, and a UN Voluntary Fund for peasants and other people working in rural areas should be established to support their participation in the activities of the UN system.
- The Committee on World Food Security and UN specialized agencies shall integrate the implementation of the UN Declaration in their work. The IMF, WIPO and WTO shall take the UNDROP into account in their work. The UNDROP should also be mainstreamed into the strategies aimed at achieving the SDGs.
- Regional organizations shall support the implementation of the UNDROP in their regions. Regional parliamentary groups should be created on the rights of peasants and other people working in rural areas, and the promotion of these rights should be integrated in the work of parliamentary groups that are already established, such as the parliamentary fronts that aim to fight hunger in Latin America and Africa
- Regional human rights bodies should include the UNDROP in their work, and protect the rights enshrined in the UN Declaration. The African Commission on Human and Peoples' Rights should establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create a mandate for a new Rapporteur on the rights of peasants and other people working in rural areas.

SELECTED REFERENCES IN RELATION TO THE IMPLEMENTATION OF THE UNDROP

[UN Special Rapporteur on the rights of indigenous peoples](#)

[UN Expert Mechanism on the rights of indigenous peoples](#)

[UN Permanent Forum on indigenous issues](#)

[UN Voluntary Fund for indigenous peoples](#)

[Making the Declaration Work – The United Nations Declaration on the Rights of Indigenous Peoples](#)

[Negotiation of the UN Declaration on the rights of peasants and other people working in rural areas](#)

[UN Special Rapporteur on the right to food](#)

[CEDAW Committee General Recommendation no. 34 on the rights of rural women](#)

THE GENEVA ACADEMY

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THE RIGHTS OF PEASANT

In 2018, the United Nations (UN) Human Rights Council and General Assembly adopted the UN Declaration of the rights of peasants (UNDROP). After having provided academic support to the negotiation of the UNDROP for ten years, the Geneva Academy project on the rights of peasants promotes its implementation through publications, conferences, expert seminars, and training courses.

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