

Sentence by the Supreme Court of Justice of Honduras, declaring the Law for the Protection of Plant Varieties unconstitutional.

This is an unauthorised translation from the [original Spanish](#). Translator: Katie Whiddon. The translation was initiated and funded by [APBREBES](#) and [HEKS/EPER](#).

SECTION A. AGREEMENTS AND LAWS

La Gaceta. REPUBLIC OF HONDURAS, TEGUCIGALPA. M, D, C. 28 OCTUBRE 2022. No. 36,062.

CERTIFICATE

The undersigned, Secretary of the Constitutional Chamber of the **Supreme Court of Justice CERTIFIES: The Sentence** that reads: **“SUPREME COURT OF JUSTICE. CONSTITUTIONAL CHAMBER.** Tegucigalpa, municipality of the Central District, on 7 November 2021. **REFERENCE:** To issue a Sentence on the appeal to declare the unconstitutionality of **Decree No. 21 -2012**, containing the **Law for the Protection of Plant Varieties**, filed by way of action, in its full form and by reason of content, by CLETO LAGOS NIVARRES, active member of the Association of Producers of Basic Grains Oro Verde of Orocuina, department of Choluteca, LEOPOLDO RAUDALES CALIX, independent farmer, DONAL EUGENIO FUNES CASTRO, independent farmer from San Jose, department of Comayagua, OLGA NOEMI VELASQUEZ, independent producer from the municipality of San Ignacio, department of Francisco Morazan, FRANCISCA CASTILLA LORENZO, member of the Simpinuia Indigenous Council of Santa Maria de La Paz, SEBASTIAN REYES BARDALES, in his capacity as General Secretary of Rural Workers in La Paz, BERTILIA SARAVIA CHAVARRIA, in her capacity as Assistant Secretary of the “3 de Octubre” Peasant Production Associative Company, department of Comayagua. **Decree No. 21-2012**, containing the **Law for the Protection of Plant Varieties**, was issued by the NATIONAL

CONGRESS OF THE REPUBLIC, on 13 May 2012, and published in La Gaceta No. 32,827 on 23 May 2012.

BACKGROUND: 1) On November 15, 2018 CLETO LAGOS NIVARRES, LEOPOLDO RAUDALES CALIX, DONAL EUGENIO FUNES CASTRO, OLGA NOEMI VELASQUEZ, FRANCISCA CASTILLA LORENZO, SEBASTIAN REYES BARDALES and BERTILIA SARAVIA CHAVARRIA appeared before this Constitutional Chamber and filed an appeal so that the Law for the Protection of Plant Varieties may be ruled as unconstitutional, in its full form and for reasons of content. This Law was approved by the NATIONAL CONGRESS on 13 May 2012, following Legislative Decree No. 21-2012, and published in La Gaceta No. 32,827 on 23 May 2012, and grants protection rights to plant breeders. They appealed for the Law to be declared void on the grounds that it violates constitutional precepts and contradicts the provisions of various international treaties and/or conventions to which Honduras is party, related mainly to the use, enjoyment of and benefits from native seeds and local plant varieties considered as inherent elements of the right to life and respect for human dignity of Hondurans, as fundamental rights that should not be diminished, restricted or distorted by the implementation of a law that is contrary to such esteemed interests of the nation, in accordance with the provisions of Article 64 of the Constitution, which mandates the non-implementation of laws that regulate the exercise of rights and guarantees established in our Constitution, should these laws diminish, restrict or distort such rights. This is in

accordance with Article 2 of the Law on Constitutional Justice, which establishes rules for interpreting and implementing law, assuring and effectively protecting human rights and the proper functioning of the defence of the constitutional legal order, in accordance with treaties, conventions and other international human rights instruments currently in force in the Republic of Honduras.

2) The claimants having indicated that this appeal was against the above-mentioned Decree entirely for reasons of content, on January 9 2019, this Supreme Court issued an order to admit the Appeal for Unconstitutionality. Communication to the National Congress of the Republic was omitted and the Supreme Court decided to transfer the information to the Prosecutor, to issue the corresponding opinion (page 17 of the proceedings).

3) On March 27, 2019, the AMICUS CURIAE presented by the organisation FIAN International and its national chapter FIAN Honduras was admitted. In accordance with the provisions of Article 80 of the Constitution, the transfer granted by the Prosecutor was also completed and the corresponding opinion of the Public Ministry was issued in due time and form, through Lawyer SAGRARIO ROSIBEL GUTIERREZ, acting in her capacity as Special Prosecutor for the Defence of the Constitution. The Lawyer was of the opinion that the appeal for unconstitutionality SHOULD BE DECLARED VOID. This was based on the consideration that the goal of declaring unconstitutionality is to determine the constitutionality of norms submitted to constitutional examination, therefore, having studied the law in question, it was found that there was no contradiction with the Constitution. Consequently, there was no conflict between primary law and the above-mentioned decree, and thus the Lawyer considered that it is appropriate to implement it, as it is not unconstitutional (Pages 32 to 46 and page 48 of the proceedings).

CONSIDERING THAT: (1) The Supreme Court of Justice has the original and exclusive power to decide on the Guarantee of Unconstitutionality¹ via the Constitutional Chamber, in its capacity as final and definitive interpreter of the Constitution in this case.

CONSIDERING THAT: (2) This Constitutional Chamber of the Supreme Court of Justice is aware of the Guarantee of Unconstitutionality that was filed by way of action on November 15, 2018, by CLETO LAGOS NIVARRRES, active member of the Association of Producers of Basic Grains Oro Verde de Orocuina, department of Choluteca, LEOPOLDO RAUDALES CALIX, independent farmer, DONAL EUGENIO FUNES CASTRO, independent farmer from San Jose, department of Comayagua, OLGA NOEMI VELASQUEZ, independent producer from the municipality of San Ignacio, department of Francisco Morazan, FRANCISCA CASTILLA LORENZO, member of the Simpinuia Indigenous Council of Santa Maria de La Paz, SEBASTIAN REYES BARDALES, in his capacity as General Secretary of Rural Workers in La Paz, BERTILIA SARAVIA CHAVARRIA in her capacity as Assistant Secretary of the "3 de Octubre" Peasant Production Associative Company, department of Comayagua, to declare the unconstitutionality of **Decree No. 21 -2012**, containing the **Law for the Protection of Plant Varieties**, in its full form and by reason of content, and to consequently annul this Law.

CONSIDERING THAT: (3) The claimants present five reasons why, according to them, the implementation of the Law for the Protection of Plant Varieties, contained in Legislative Decree No. 21-2012, goes against constitutional provisions and International Treaties, namely:

- I Legislative Decree No. 21-2012 violates our country's sovereignty and self-determination, by granting breeding rights over our native seeds and plant varieties for commercial use to the detriment of free access to our wealth and natural resources. The claimants argue that Article 1 (paragraphs I and 2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)² is violated, given that, having signed the International Convention for the Protection of New Varieties of Plants (UPOV), the State issued Decree 21-2012 in order to adapt the country's internal and institutional regulations to comply with UPOV. The claimants consider that this is in clear contradiction with constitutional precepts regarding peoples' sovereignty and self-determination. These universal principles are widely recognised by the State of Honduras and in ratified International Treaties, in the context of the international community, as per Articles 1³, 5⁴ and 15⁵, of the Constitution. Referring to provisions found in Article 7, the claimants claim that the Law that they question fully adheres to UPOV guidelines. They argue that it contradicts the Military Government's Decree 1046 that contains the Law on Seeds (1980), which remains in force, as it establishes the following principles of seed management: the sovereign power of the State of Honduras to exercise quality control and provide seed for its multiplication, and control over the production of types of certified and commercial seeds, allowing for their trade inside and outside of the country, adhering only to quality requirements and to the fact that these must be available to all farmers in the country, thereby becoming a vehicle for technology transfer. Following UPOV guidelines, it creates exclusive instances for its implementation, as a qualifier of plant varieties, with a representative from the Directorate of Intellectual Property insisting on illegally citing the current Industrial Property Law, a National Registry of Plant Varieties that replaces the registry that was created as per Decree 1046 of 1989, both instances then replacing the National Seed Production Programme that is under the remit of the Secretariat of Natural Resources. The objective of the National Seed Production Programme is to promote and regulate the production, certification, commercialisation and export of seeds, and, as per its institutional mandate, it prioritises the Agrarian Reform Programmes, promotes the Seed Industry, and exercises quality control in all stages of production. Legislative Decree 21-2012 subordinates the institutional and legal framework that is currently in force in order to implement this Law. Here the approach is different and contrary, making it evident which legal right is being protected to the detriment of Hondurans and in favour of transnational seed production.
- II The UPOV Convention, through Legislative Decree No. 21-2012, violates constitutional precepts that are in favour of life, human dignity and the right of Hondurans to have an adequate standard of living. A second reason that the claim-

ants have called for this Law to be declared unconstitutional because the Law sets out to protect the rights of plant breeders in conditions of inequity vis-à-vis traditional peasant breeders and indigenous communities, with the purpose of primarily generating profit, thereby infringing on the ability of large sectors of society to have free access to food and other plant varieties in a healthy and sustainable environment, which are fundamental elements for life. This damages the spirit of our Constitution, which recognises human beings as the final supreme authority of society and of the State itself, and the obligation to respect and protect human beings, under the principles of social and collective interest in all activities of this type, ensuring the inviolability of life, and the social and economic wellbeing of Hondurans, as protected legal assets. In that line of thought, this Law violates Article 65⁶ of the Constitution; Article 17 of the American Declaration of the Rights and Duties of Man; and Article 3 of the Universal Declaration on Human Rights⁸. In this sense, international human rights treaties generate a type of multilateral erga omnes obligations on the part of States vis-à-vis the international community. Thus, these obligations can be demanded internationally, once States have signed and ratified treaties and conventions, and expressly recognised their declarations in the field of human rights. States are thereby obliged to respect the human rights of the people who are subject to their jurisdiction; to not interfere in their freedom of action and in the use of their own resources to meet their personal needs; and to protect people and their assets against threats and attacks. The claimants affirm that Decree 21-2012 contradicts international norms to which Honduras is party, and maintain that they recognise the State's obligations to guarantee, protect and respect the rights of the people who are under its jurisdiction, in their obligation to ensure their food sovereignty and food security. This is the case with their native seeds and their own plant varieties in the face of transnational companies, which seek to submit peasants' and indigenous peoples' heritage to the mercy of the market, just like any other merchandise. Based on this second reason that the claimants raised for this Law to be declared unconstitutional, they argue that the right to an adequate standard of living of Hondurans is violated. Even though this right is not comprehensively encapsulated in the Constitution, the economic and social wellbeing of Hondurans is ensured, as per articles of the Constitution; Article 25.1⁹ of the Universal Declaration of Human Rights, and Article 11¹⁰ of the ICESCR. They reiterate that Decree 21-2012 violates this right, due to its intrinsic nature in terms of purposes and objectives, insofar as it limits these rights and other fundamental guarantees of peasant communities and indigenous peoples, who are agricultural producers and insecure urban consumer communities, with women, children and the elderly as transversal attacked vulnerable groups, rendering the full enjoyment of these rights insecure. The Decree violates these rights by privileging the inertness of profit over human achievement, by converting native seed – a cultural and collective heritage of the nation – into merchandise, to the detriment of peoples' food and nutritional security and their ability to produce their own food in a sustainable and

healthy way, which is the premise of the State's sovereignty and security. It also threatens the economic wellbeing of Hondurans, as it encourages: a) an increase in the cost of food sources (it makes seeds and plant varieties more expensive as a source of food), b) insecure and inequitable access (making farmers dependent on seed-producing companies); and c) ignorance of their social, religious and cultural practices, which are inherent to a people's traditional foods. This contravenes Articles 328¹¹, 331¹² and 333¹³ of the Constitution on the regime of the Economic System of Honduras, which is based on the principles of efficiency, justice and social public interest being placed above any commercial economic practice that harms these guiding principles.

- III Decree 21-2012 violates the human right to food and health as the right of peoples to nutritious, healthy and culturally adequate food, in terms of access, availability, safety and being culturally acceptable. The claimants maintain that our Constitution does not fully recognise the right to food, as it does other social rights, such as work, health, and education, but it does refer to food indirectly, when it addresses the rights of the child in Articles¹⁴ 121 and 123, as well as in Art. 347, which refers to agricultural production. The right to food entails three types of obligations: to respect, protect and guarantee. The obligation to respect implies that the State of Honduras must refrain from restricting the right of inhabitants to exercise the right to food, or from interfering in its realisation. The obligation to protect requires the State of Honduras to protect individuals or groups of individuals from the violation of the right to food by companies or individuals. The obligation to guarantee means that the State adopts measures to strengthen people's access and use of the resources and means that ensure their livelihoods, including food security. References to this right can be found in Art. 25 of the Universal Declaration of Human Rights, Art. XI of the American Declaration of the Rights and Duties of Man, Art. 11.2 of the ICESCR, Art. 12 of the Additional Protocol to the American Convention on Human Rights in matters of Economic, Social and Cultural Rights, known as the "Protocol of San Salvador". In this order of ideas, the claimants affirm that Decree 21-2012 specifically contravenes the four fundamental pillars of food security in terms of availability, access to food, utilisation and stability, as well as the respect for human dignity as a substantial element of its conceptualization insofar as it prohibits the free management and circulation of seeds and plant varieties, which are a fundamental source of food for survival. The plant variety breeder's authorisation is required for the production or reproduction (multiplication) of propagation materials that are in the public domain. The breeder then receives exclusivity over the use and enjoyment of these materials, thereby prohibiting the use of multiplication, reproduction or propagation material, including whole plants and their parts in the cases of fruit, ornamental and forest plant species, for market purposes. However, in the case of peasants, what prevails is an exchange during which there is no profit. They also maintain that this Law contradicts both Decree 1046 of the Military Government of 1980, which contains the Law on Seeds that is currently in force, and the International Treaty on Plant Genetic Resources for Food and Agriculture

(ITPGRFA, FAO 2001), which recognises farmers' rights to conserve, use, exchange and sell their seeds or other propagation materials and to freely dispose of their crops. By awarding third parties the property rights over native seeds and other plant species in an exclusive, inalienable and imprescriptible manner (over at least fifteen plant species since coming into force in 2012 for a term of ten years), the claimants therefore consider that the Law expropriates our native seeds, denies farmers their rights to save their seeds, and to be able to use and freely exchange them to sow again. According to this third reason put forward by the claimants for declaring the Law unconstitutional, the claimants argue that it violates the right to health, because genetic manipulation – which is one of the methods of plant manipulation used by some plant breeders – leads to a series of disadvantages related to the full and safe enjoyment of the right to health of people, animals and the environment. Today, many scientists agree that this type of commercial plant breeding causes damage to health, such as the appearance of allergies in people who are susceptible to the elements that are used in the process.

IV Decree 21-2012, for reasons of content, contradicts Art. 145 of the Constitution, which recognises the obligation of the State of Honduras to preserve an adequate environment to protect people's health. This is the fourth reason put forward by the claimants, as they maintain that the Law contradicts constitutional and international norms¹⁵ (to which Honduras is party) related to the protection and defence of the environment. In the case at hand, they highlight what will result from gene manipulation in seeds and plant varieties through the granting of licenses to breeders, as encouraged by the Law. This refers to the document issued by the Ministry of Agriculture and Livestock to breeders, which recognises their right over a novel, distinct, stable, and homogeneous plant variety as per these eligibility criteria, obtained through transgenic manipulation. It is worth noting that homogeneity is a criterion for the purpose of market demands; the market standardises seeds and crops, thereby destroying the prevailing biodiversity in our communities and consequently damaging the limited capacity for species regeneration and increased vulnerability due to genetic contamination.¹⁶ This endangers the multiple varieties of national seeds, which are cultivated in a traditional way, and which have specifically adapted to the country's own ecosystem diversity.

V Legislative Decree 21-2012, which contains the Law for the Protection of Plant Varieties, contravenes the duty of the State of Honduras to protect our native cultures, as well as constitutionally and internationally recognised farmers' rights. In relation to this fifth reason put forward by the claimants, they argue that this Law deliberately contradicts the values, practices and institutions of Honduran indigenous and Afro-descendant peoples in their use of their own seeds and plant varieties, which are essential for the life and sustainable development of the population in general. This is in accordance with the provisions of Art. 172 of the Constitution, and the provisions of ILO Convention 169 on Indigenous and Tribal Peoples Convention (1989), which must be interpreted under the premises of maintaining and strength-

ening their cultures, their own ways of life and institutions, and their right to effectively participate in decision-making that affects them. This is reinforced by the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (in 2007), which establishes minimum standards for the respect of indigenous peoples' rights, including ownership of their lands, the natural resources of their territories, and the preservation of their traditional knowledge, such as the local management of their native seeds and plant varieties, as well as their rights to self-determination and prior consultation. This Law, due to its content, violates the guarantor and protective nature of the State of Honduras over these peoples' rights to use, administer and conserve native seeds and plant varieties, by authorising access to plant genetic resources for commercial purposes, understood – as per the Nagoya Protocol – as the information contained in and about native seeds and local plant varieties, which are considered a resource in both their diversity and as a source of human and animal nutrition, production of fibres for clothing, housing and energy (FAO).

CONSIDERING THAT: (4) Pursuant to the provisions of Art. 185 of the Constitution in relation to Art. 77 (first paragraph) and 79 (numeral 5) of the Law on Constitutional Justice, the action of unconstitutionality may be requested by anyone who considers themselves to be injured in their direct, personal and legitimate interest. In the opinion of this Supreme Court, only the claimants, Cleto Lagos Nivarres, Leopoldo Raudales Calix, Donat Eugenio Funes Castro, Olga Noemi Velasquez and Francisca Castilla Lorenzo, in their capacity as claimants, have the necessary legitimacy to file this case. This is by virtue of the fact that the right to adequate and accessible food, as claimed by the claimants, is of interest to the Honduran population in general, given the relationship between the human being and a standard of living.

CONSIDERING THAT: (5) Art. 79 (No. 3) of the Law on Constitutional Justice establishes that a claim for declaring unconstitutionality by way of action must contain, among other prerequisites, an indication of the law or any of its precepts that are claimed to be unconstitutional, in virtue of having a direct, personal and legitimate interest. The Constitution demands these necessary prerequisites, which, as stated, are fulfilled in this action.

CONSIDERING THAT: (6) The Constitution privileges human persons by stating that they constitute the supreme goal of society and of the State and that their dignity is inviolable, thus establishing the obligation of all to respect and protect them. By virtue of this, an interpretation of the constitutional text must take into account pro-homine principles, which, in our fundamental law, constitute a transversal axis, in accordance with the international instruments related to the protection of human rights ratified by Honduras.¹⁷

CONSIDERING THAT: (7) The unconstitutionality of the Law for the Protection of Plant Varieties has been raised in order for the Law to be declared unconstitutional and therefore not to be implemented for reasons of content, as the claimants consider that it infringes constitutional precepts and contradicts the provi-

sions of various treaties and international conventions to which Honduras is party, mainly those related to the use, enjoyment of and benefit from native seeds and local plant varieties considered as inherent elements of the right to life and respect for the human dignity of Hondurans. These fundamental rights should not be diminished, restricted or distorted through the implementation of a law that is contrary to such valued interests of the nation. This is in accordance with the provisions of Art. 64 of the Constitution, which mandates the non-implementation of laws that regulate the exercise of rights, declarations, rights and guarantees established in our Constitution, should these laws diminish, restrict or misrepresent them.

CONSIDERING THAT: (8) The AMICUS CURIAE, presented by the organisation FIAN International¹⁸ and their national office FIAN Honduras, argues that the Law for the Protection of Plant Varieties violates multiple rights recognised in international Human Rights law. It therefore states the importance of taking these norms into consideration at the time of issuing the corresponding decision. The Amicus Curiae indicates that the right to adequate food is established in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), an instrument ratified by the State of Honduras on February 17, 1981. It is argued that the State of Honduras is obliged to: i) refrain from adopting measures that result in preventing access to adequate food; ii) adopt positive protection measures to “ensure that companies or individuals do not deprive people of access to adequate food”; iii) undertake activities that seek to strengthen the population’s access to and use of the resources and means that ensure their livelihoods, including food security.

CONSIDERING THAT: (9) Decree No. 21-2012, which contains the Law for the Protection of Plant Varieties, was created with the purpose of establishing the bases and procedures for the protection of plant breeders’ rights, based inter alia on the Government’s priority to promote inventive activity in its various modalities and thereby on the need to establish national regulations based on international principles that govern this matter. On first impression it is presented as the protection of the right of natural or legal persons who have obtained and developed a plant variety of any genus and species through an improvement process. However, it lies within the remit of this Supreme Court to fully determine whether this Law contains provisions that violate the fundamental principles of food security, human dignity, health, a healthy environment, etc., which are recognised fundamental human rights of this nation’s inhabitants, constituted as the Rule of Law to ensure these rights, the enjoyment of justice, freedom, culture and economic and social wellbeing.

CONSIDERING THAT: (10) The Chamber considers that the human person is at the core of our Constitution, in the Rule of Law, and that the Constitution incorporates the provisions contained in international human rights instruments. To this end, it develops a constitutional technique called “implicit rights” as the Constitution affirms that the rights that are expressly declared do not entail the denial of other rights.¹⁹ This means that the Constitution provides the minimum statute of protection for the human person; therefore the text is not exhaustive but rather transcends itself and is complemented by international

human rights instruments. In other words, the Constitution and International Human Rights Instruments interact by helping each other in protecting fundamental human rights. All of the above establishes a constitutional doctrine that has come to be known as the “Constitutionality Block”. This is reaffirmed with two constitutional provisions: a first provision provides for a constitutional reform and approval procedure in the event that an international instrument affects a constitutional provision, inferring that the norm that is essential to that act must be harmonised with the international instrument; a second provision expresses the superior legal character of the international treaty over the law.²⁰

CONSIDERING THAT: (11) Honduras has signed several international instruments related to the protection of human rights, inter alia, the Universal Declaration of Human Rights.²¹ The preamble establishes that Member States undertake to ensure, in cooperation with the United Nations, universal and effective respect for fundamental human rights and freedoms. Similarly, when the Universal Declaration of Human Rights was adopted, ideally both individuals and institutions would be inspired to promote and teach the respect for human rights and freedoms, thereby ensuring their progressive realisation nationally and internationally as well as their universal and effective recognition and implementation, both among the peoples of the Member States and among those of the territories under their jurisdiction. In this sense, article 25 stipulates one of the rights recognised by the Declaration as follows: “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, etc.”

CONSIDERING THAT: (12) The International Covenant on Economic, Social and Cultural Rights (ICESCR)²², also ratified by Honduras, addresses the right to adequate food more extensively than any other international instrument. As established in Art. 11: “1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

CONSIDERING THAT: (13) Honduras also signed the American Convention on Human Rights²³, with the purpose of consoli-

dating – in the Americas – a regime of personal freedom and social justice premised on democratic institutions that are underpinned by the respect for essential rights. These rights do not simply stem from the fact of being a national of a certain State, rather, they are based on the human person's attributes. This is why they justify an international protection based on conventions that contribute or complement the protection offered by the American States' national legislation. In accordance with the Universal Declaration of Human Rights, the ideal of a human person that is free from fear and misery can only be realised if conditions are created for each person to enjoy their economic, social and cultural rights, as well as their civil and political rights. Art. 26 consequently recognises the progressive development of economic, social and cultural rights as follows: "The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires."

CONSIDERING THAT: (14) In the 20th period of sessions,²⁴ the Committee on Economic, Social and Cultural Rights addressed, as Agenda Item 7, substantive issues that arise in the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), in relation to the right to adequate food (Art. 11), and issued General Observation 12, which includes general guidelines that must be observed by States. General Observation 12 recognises the fundamental importance of access to adequate food as a human right, linked to the inherent dignity of the human person, essential for the enjoyment of other human rights enshrined in the Universal Declaration of Human Rights. It states *inter alia* the following: The main obligation is to adopt measures to progressively realise the right to adequate food. States Parties commit to adopt measures to guarantee that all persons under their jurisdiction have access to the bare minimum food that is essential, sufficient, safe and nutritionally adequate to protect them against hunger.

The right to adequate food, like any other human right, imposes three types or levels of obligations on States Parties: the obligations to respect, protect and fulfil. Meanwhile, the obligation to realise the right to food entails both the obligation to facilitate and the obligation to make effective. The obligation to respect existing access to adequate food requires States not to take any measures that hinder that access. The obligation to protect requires the State Parties take measures to ensure that companies or individuals do not deprive people of access to adequate food. The obligation to realise (facilitate) means that the State must seek to initiate activities in order to strengthen people's access and utilisation of the resources and means that ensure their livelihoods, including food security. Lastly, when an individual or a group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to directly fulfil (make effective) that right. This obligation also applies to people who are victims of natural disasters and other events.

CONSIDERING THAT: (15) Food security refers to the availability of food, the access of people to them and the biological use of them.²⁵ A household is considered to be in a situation of food security when its members have sustained access to sufficient food in quantity and quality according to their biological needs. Two commonly used definitions of food security are offered by FAO²⁶ and provided by the United States Department of Agriculture (USDA):

"Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life."

Household food security exists when all its members have access at all times to sufficient food for an active and healthy life.

Food security includes at least: 1) "The ready availability of nutritionally adequate and safe foods". 2) "Assured ability to acquire acceptable foods in socially acceptable ways (that is, without resorting to emergency food supplies, scavenging, stealing, or other coping strategies)." This is how food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life (FAO).

CONSIDERING THAT: (16) Biological diversity is the basis of agriculture. Agricultural biological diversity includes ecosystems, animals, plants and microorganisms related to food and agriculture. Today, most species of domesticated crops and livestock are the result of thousands of years of human intervention, such as selective breeding and other agricultural practices. Agricultural biodiversity provides food and raw materials to produce goods. Furthermore, each plant, animal and microorganism plays a role in regulating essential ecosystem services, such as water conservation, decomposing waste and nutrient cycling, pollination, pest and disease control, climate regulation, controlling erosion and preventing floods, carbon sequestration and much more. Although modern agricultural practices have led to an increase in food production, largely contributing to improving food security and to reducing poverty, they have also been responsible for considerable damage to biological diversity, mainly due to changes in land use, but also due to overexploitation, the intensification of agricultural production systems, the excessive use of chemical products and water, the nutrient load, pollution and the introduction of invasive alien species. Agriculture is part of the landscape and has to be managed wisely and sustainably in this context. Farmers' traditional knowledge²⁷ is fundamental in maintaining biological diversity and ensuring global food security. Today, this knowledge is being eroded, thereby undermining the important contribution that farmers can make. Agriculture faces the tough challenges of meeting the needs of an ever-growing population while reducing its footprint on the earth's resources and biological diversity. These challenges can be technically overcome, but this requires major changes in policies and approaches. To this end, it is essential that farmers, consumers, governments and other stakeholders collaborate more effectively to take advantage of the contribution that biological diversity can make to the achievement of sustainable agriculture.²⁸

CONSIDERING THAT: (17) Honduras has ratified different declarations, conventions, and treaties related to the conservation and sustainable use of plant genetic resources for food and the equitable benefit sharing arising from their utilisation in order to achieve a sustainable agriculture and food security, so that States may improve the living conditions and general wellbeing of their inhabitants. This requires the establishment of effective laws on the sustainable use of resources and that promote biological diversity, in order to achieve food security, conserve biodiversity and protect the environment overall. Thus, according to International Treaty on Plant Genetic Resources²⁹ for Food and Agriculture (ITGRFA),³⁰ Parties recognise the tremendous contribution that local and indigenous communities and farmers have made and continue to make to the conservation and development of plant genetic resources. In accordance with its needs and priorities, each Party shall, as appropriate and subject to its national legislation, adopt the pertinent measures to protect and promote farmers' rights, in particular: the protection of traditional knowledge regarding plant genetic resources for food and agriculture; the right to equitably participate in benefit sharing arising from the utilisation of plant genetic resources for food and agriculture; and the right to participate in decision-making on matters relating to conservation and the sustainable use of plant genetic resources for food and agriculture at the national level. The sustainable use of plant genetic resources for food and agriculture may include measures, such as, inter alia, the promotion of plant breeding initiatives that, with the participation of farmers, strengthen the capacity to obtain varieties particularly adapted to social, economic and ecological conditions.³¹

CONSIDERING THAT: (18) According to the block of conventionality, the best way to address issues related to the sustainable use of plant genetic resources for food and agriculture is through the participation of all affected citizens at the pertaining level, as well as by giving them the opportunity to participate in decision-making processes.³² Additionally, mechanisms should be created whereby the participation of organisations, groups, and interested individuals in decision-making is facilitated.³³

Art. 15 of the Constitution stipulates that Honduras endorses the principles and practices of international law that promote human solidarity, respect for peoples' self-determination, non-intervention and the consolidation of peace and universal democracy. Additionally, the second paragraph of Art. 16 of our Magna Carta stipulates that international treaties to which Honduras is Party along with other States, form part of domestic law once they come into force. In this line of thought, this Supreme Court reiterates that, the human person being at the core of our Constitution, the Constitution incorporates the provisions contained in international human rights instruments. To this end, it develops a constitutional technique called "implicit rights" as the Constitution affirms that the rights that are expressly declared do not entail the denial of other rights. This means that the Constitution provides the minimum statute of protection for the human person, therefore the text is not exhaustive but rather transcends itself and is complemented by international human rights instruments, thus the Constitution

and the International Human Rights Instrument interact by helping each other in protecting fundamental human rights. In addition to the above, in terms of protecting the rights of indigenous and tribal peoples, the Constitution guarantees the protection of existing natural resources on their lands, including participation in the use, administration and conservation of these resources.³⁴ The State is thereby duty-bound to dictate measures to protect the rights and interests of indigenous communities, especially the lands and forests where they are settled; recalling the particular contribution of indigenous and tribal peoples to cultural diversity, and to the social and ecological harmony of humanity. For these reasons it is necessary to preserve and stimulate their cultures, whilst not forgetting that the Government must base itself on the principles of peoples' sovereignty and self-determination as well as on participatory democracy.³⁵ The latter undergirds the Rule of Law, which in turn is reinforced and deepened through the permanent, ethical and responsible participation of citizens in a legal framework that is in accordance with the Constitution.³⁶ Citizen participation is needed in its entirety for the effective exercise of democracy in order to promote and encourage various forms of participation. Democracy is thereby strengthened, which is the highest goal of the Rule of Law, in a State that seeks to satisfy the enjoyment of justice, freedom, culture and economic and social wellbeing as declared by our Magna Carta.

CONSIDERING THAT: (19) Similarly, in accordance with the block of conventionality, States have the sovereign right to take advantage of their own resources, according to their own food policies, for this reason it is important to differentiate between food security and food sovereignty: while the first refers to guaranteeing the supply of food, food sovereignty is understood as peoples' ability to define their own agricultural and food policies in accordance with the objectives of sustainable development and food security without side-lining the commitments made by the State through all international human rights instruments, when it comes to the right to food.

CONSIDERING THAT: (20) Decree No. 21 -2012, which contains the Law for the Protection of Plant Varieties, drafted with the purpose of establishing the bases and procedures for the protection of the rights of breeders of plant varieties, contains provisions that contradict not only constitutional norms but also international standards for the protection of human rights, related to the protection of the right to food, contained in different international human rights instruments, on the basis that adequate food includes the availability of food in sufficient quantity and quality to meet the dietary needs of individuals. This food is free from harmful substances and adequate for any given culture, and accessible in ways that are sustainable and do not hinder the enjoyment of other human rights.

On first impression, the law that is claimed to be unconstitutional protects the rights of breeders of plant varieties, however, it contains provisions that contravene the commitments assumed by the State of Honduras to adopt relevant measures to: a) protect and promote farmers' rights, particularly to protect traditional knowledge of plant genetic resources for food and agriculture; b) the right to equitably participate in the distribu-

tion of benefits derived from the use of plant genetic resources for food and agriculture; and c) the right to participate in decision-making at the national level on issues related to the conservation and sustainable use of plant genetic resources. This is coupled with the conservation of biological diversity as the fundamental basis of agriculture. This law fails to acknowledge that peasants' traditional knowledge is essential for preserving biological diversity and guaranteeing food security. This law grants a concession title with non-temporary privileges to breeders of plant varieties for up to 25 years (Art. 11). According to this Chamber, this infringes on the constitutional provisions contained in Art. 339 and 340, as it leads to a situation that favours monopolies, which are prohibited by the Constitution. Monopoly is understood as the legal right granted by the State to an individual, group or company to exclusively exploit an industry or trade, as well as a market situation, in which one producer or seller alone exploits a good or service, which leads to much power and a privileged position. The Constitution precisely aims to prevent these situations by guaranteeing and promoting, according to precept 331, the freedoms of, inter alia, consumption, saving, investment, occupation, initiative, commerce, industry, and company contracting. However, exercising these freedoms should not go against public interest or be harmful to health or public safety. For this reason, and precisely with the aim of rationally exploiting natural resources – that are of public utility and need – the State must regulate the use of natural resources in accordance with public interest, in order to guarantee a healthy environment for the nation's inhabitants, by balancing this with the protection and conservation of land and ecosystems, which interact as a functional unit. Moreover, this Constitutional Chamber considers that the State must be extremely zealous whenever natural resources are compromised, especially when dealing with resources that satisfy the population's right to food. Thus, in line with the above-mentioned freedoms, article 340 of the Magna Carta establishes that the technical and rational exploitation of the nation's natural resources is of public utility and need. The State must accordingly regulate their utilisation in accordance with public interest, and set the conditions to provide these to individuals, in line with the principles that the Constitution itself sets.

CONSIDERING THAT: (21) The Law for the Protection of Plant Varieties contains provisions that encourage an increase in the cost of sources of food, by granting rights to breeders of plant varieties over the plant material of a certain variety, which can comprise all forms of reproduction and propagation material, as well as the harvest, including whole plants and parts of plants and any product manufactured directly from the produce (Art. 10). Art. 328 of our Constitution guarantees that the economic system is based on principles of efficiency in production and social justice. Likewise, Art. 347 of the Constitution stipulates that agricultural production should preferably be oriented towards satisfying the food needs of Hondurans, following a policy of adequate supply and fair prices for the producer and the consumer. This Law contains guidelines that generally contravene the above-mentioned constitutional provisions, by granting rights over plant material that constitutes the biological source for sustainably utilising plant genetic resources, result-

ing in the increase in cost not only of seeds, but of all the plant material that is used in a plant variety. Additionally, this Law ignores the commitments assumed by the State of Honduras to promulgate effective laws on the sustainable use of resources and on promoting biological diversity (Art. 13), in order to achieve food security. Although plant genetic resources increasingly play a role in food security and development throughout the world, it is also true that they have been equally responsible for considerable damage to biological diversity. This is mainly due to changes in land use, but also through overexploitation, agricultural intensification, excessive use of chemicals and water, nutrient loading, pollution, and the introduction of invasive alien species. For this reason, it is necessary to adopt the relevant measures to protect and promote farmers' rights, in particular: the protection of traditional knowledge on plant genetic resources for food and agriculture; the right to equitably participate in benefit-sharing derived from the utilisation of plant genetic resources for food and agriculture; and the right to participate in decision-making at the national level, on matters relating to conservation, and food and agriculture.

CONSIDERING THAT: (22) As per our regulations, the action of unconstitutionality is deemed appropriate when the objective is to declare that an ordinary law is unconstitutional if it violates or is contrary to the provisions of the Constitution or of an International Treaty or Convention to which Honduras is Party. It falls under the remit of the Supreme Court of Justice, through its Constitutional Chamber, to be informed and exclusively resolve the matter³⁷, for which it will pronounce itself, having observed the prerequisites for the final sentence.

CONSIDERING THAT: (23) In accordance with Article 89 of the Law on Constitutional Justice, in this sentence the Law can be declared either entirely or partially unconstitutional, if parts or precepts of the Law in question cannot be separated from the totality of the norm. In the case being considered by this Court, the claimants appealing before this Court request that the LAW FOR THE PROTECTION OF PLANT VARIETIES be declared unconstitutional in its entirety. Having analysed and studied the precepts that make up this Law, this Constitutional Chamber reaches the conclusion that it violates the Constitution, as well as international agreements signed and ratified by Honduras and international standards on the protection of fundamental human rights. The precepts that make up a fundamental part of this Law are declared unconstitutional for the reasons set out in this libel. Therefore, the law in question cannot subsist with the declaration of unconstitutionality of the aforementioned articles, which make up the essence of this Law.

CONSIDERING THAT: (24) This sentence is erga omnes, i.e., its effect is general.

One of the most pertinent characteristics of concentrated constitutional control systems is precisely that the law (or part of it) that is declared unconstitutional and illegitimate should no longer exist. Consequently, such a declaration has legislative force, and directly impacts the legal system. The general effect or erga omnes of this sentence implies that all bodies, powers and authorities are linked to citizens in general. Thus there is a point

of no return in the process of legal verification of constitutional values.

CONSIDERING THAT: (25) In the present case, it can be inferred that Art. 2, 4, 7, 8, 10, 11 and 13 of the LAW FOR THE PROTECTION OF PLANT VARIETIES, contained in Legislative Decree No. 21-2012, issued by the NATIONAL CONGRESS OF THE REPUBLIC, on 13 May 2012, and published in La Gaceta No. 32,827 on 23 May 2012, violates: Art. 1, 4, 5, 15, 16, 59, 63, 64, 328, 331, 332, 339, 340 and 347 of our Constitution; 25 of Universal Declaration of Human Rights; 1, 2 and 26 of the American Convention on Human Rights; 11 of International Treaty on Social, Economic and Cultural Rights (ICESCR); 19 and 20 of the UN Declaration on the Rights of Peasants and Other Peoples Working in Rural Areas; 1 and 2 of the Convention on Biological Diversity; 6 and 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA); as the contested precepts fail to observe the guarantees and fundamental rights that are recognised in the Constitution as well as in international norms on the protection of the right to adequate food, which is inseparable from the inherent dignity of the human person, essential for the enjoyment of other human rights enshrined in different international instruments. In this line of thought, food security exists when all people, at all times, have access (be it physical, social or economic) to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life; a situation which can be achieved through the regulatory capacity of the State.

Following all the above, this Chamber declares that the LAW FOR THE PROTECTION OF PLANT VARIETIES is entirely unconstitutional, as it contravenes, restricts and undermines constitutional regulations and international treaties signed by Honduras, as well as international standards on the protection of the right to

adequate food, as captured in the above articles of this libel.

THEREFORE: Having heard the opinion of the Prosecutor, the Constitutional Chamber of the Supreme Court of Justice, on behalf of the State of Honduras, as the last and definitive interpreter of the Constitution of the Republic, by UNANIMOUS VOTE, implements Art. 25 of Universal Declaration of Human Rights; 1, 18, 13 and 25 of the American Convention on Human Rights; 19 of the International Treaty on Social, Economic and Cultural Rights (ICESCR); 1, 4, 5, 15, 16, 59, 63, 64, 184, 185 numeral 1, 303, 304, 313 at. 5, 316, 328, 331, 332, 339, 340 and 347 of our Constitution; 1, 11 and 74 of the Organization and Powers (Courts) Act; 74, 75, 76, 77, 79, 89, and 94 of the Law on Constitutional Justice; 1 of the Law of the Public Prosecutor's Office; and 4 and 17 of the Civil Code.

DECISION:

- 1 BY REASON OF CONTENT, DECLARE THE UNCONSTITUTIONALITY OF THE LAW FOR THE PROTECTION OF PLANTS VARIETIES – contained in DECREE No. 21-2012, – issued by the NATIONAL CONGRESS OF THE REPUBLIC, on 13 May 2012, and published in La Gaceta No. 32,827 on 23 May 2012 IN ITS ENTIRETY.
- 2 Declare the IMMEDIATE EXECUTION of the present sentence.
- 3 Communicate this sentence to the National Congress of the Republic, who shall without delay order its publication in the Official Gazette, “La Gaceta”, as provided for in Art. 94 of the Law on Constitutional Justice. Archive present proceedings in the Secretariat of this Supreme Court following this ruling.

*Drafted by Judge Reina Auxiliadora Hercules Rosa.
Tegucigalpa, Central District, 25 January 2022*

ENDNOTES

1 Articles 184 and 313.5 of the Constitution.

2 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

ICESCR was adopted and opened to signature, ratification and adoption by the General Assembly in its Resolution 2200 A (XXI) on December 16, 1966. It entered into force on 3 January 1976, as per Articles 27. Subscribed to via Decree No. 961, published in La Gaceta No. 23.167 on 30 Julio 1980.

3 Honduras is a State of law, sovereign, constituted as a free, democratic and

independent republic to ensure its inhabitants the enjoyment of justice, liberty, culture, and social and economic well-being.

4 The government must be founded on the principle of democratic participation from which stems national integration. This implies participation by all political sectors in public administration, in order to ensure and strengthen the progress of Honduras, based upon political stability and national conciliation.

5 Honduras supports the principles and practices of international law, that promote the solidarity and self-determination of peoples, non-intervention and the strengthening of universal peace and democracy.

6 The right to life cannot be violated.

7 Every human being has the right to life, liberty and the security of his person.

8 Everyone has the right to life, liberty and security of person.

9 Everyone has the right to a standard of living

adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

10 The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

11 The economic system of Honduras is based on the principles of efficiency in production and social justice in the distribution of wealth and national income, as well as on the

- harmonious coexistence of the factors of production that make it possible to dignify labour as the principal source of wealth and as a means of fulfilment of the human person.
- 12 The State recognizes, guarantees and promotes freedom of consumption, savings, investment, employment, initiative, commerce, industry, contract, business and any others that flow from the principles that underlie this Constitution. However, the exercise of these freedoms may not be contrary to the social interest nor harmful to morals, health, or public security.
- 13 The practice of economic activities primarily belongs to individuals. However, the State, for reasons of public policy or social interest, may reserve to itself the operation of specified basic industries, ventures, and services affected by a public interest and issue economic, fiscal and public security measures and laws to channel, stimulate, supervise, orient and supplement private initiative on the basis of a rational and planned economic policy.
- 14 hereinafter Art.
- 15 In this regard, they mention the Stockholm Declaration (1972), which was approved during the UN Conference on the Human Environment, which served as a precedent to the Rio Declaration (1992).
- 16 They mention the Rio Declaration (June 1992) on the environment and development, developed more widely with the Cartagena Biosafety Protocol, which aims to ensure the safe handling, transport and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on biological diversity. They also centre more concretely on the International Treaty for Plant Genetic Resources (ITPGRFA) (FAO 2009), in the sense of conserving and sustainably using plant genetic resources for food and agriculture, and the equitable benefit-sharing deriving from their utilization, in harmony with the Convention on Biological Diversity, for a sustainable agriculture and food security, and Goal 15 of the UN Agenda 2030 on sustainable development, in force since January 2016, which has as one of its objectives to slow down the loss of biological diversity.
- 17 See Art. 63 of the Constitution: "The declarations, rights and guarantees enumerated in this Constitution shall not be construed as a denial of other declarations, rights and guarantees not specified that spring from the national sovereignty, from the democratic and representative form of government, and from the dignity of man."
- 18 FIAN International is a global human rights organisation that advocates for the right to adequate food and nutrition. It is the first international organisation of human rights to struggle for the right to adequate food as foreseen in the Universal Declaration of Human Rights and other international human rights instruments. Founded in 1986, FIAN is an independent non-profit organisation which holds consultative status at the UN. Apart from concrete actions, FIAN promotes the right to food through educational programmes and support at the local, regional and international levels. FIAN International has members and sections in 60 countries in Africa, Americas, Asia and Europe.
- 19 See Art. 63 of the Constitution: "The declarations, rights and guarantees enumerated in this Constitution shall not be construed as a denial of other declarations, rights and guarantees not specified that spring from the national sovereignty, from the democratic and representative form of government, and from the dignity of man."
- 20 See Art. 17 and 18 of the Constitution.
- 21 The Universal Declaration on Human Rights is a milestone in the history of human rights. Drafted and presented by all regions of the world with varying cultural and legal backgrounds, this Declaration was adopted by the UN General Assembly in Paris on December 10, 1948 in resolution 217 A (III), as a common ideal for all peoples and nations. For the first time, the Declaration establishes fundamental human rights that must be protected all over the world.
- 22 Adopted and opened to signing and ratifying and adoption by the General Assembly via Resolution 2200 A (XXI), on December 16, 1966. It came into force on January 3, 1976, as per Art. 27. La Gaceta No. 23, 167, July 30, 1987.
- 23 Subscribed to in San Jose, Costa Rica, on November 22, 1969, at the Inter-american Conference on Human Rights. It entered into force on July 18, 1978. La Gaceta No. 22287, September 1, 1977.
- 24 Geneva, April 26 to May 14, 1999.
- 25 The Convention on Biological Diversity (CBD) (UN 1992). Honduras ratified CBD on February 21, 1995, via Decree No. 30-95. CBD is an international treaty on the conservation and sustainable utilisation of biodiversity, ecosystems, and their importance for human wellbeing and the reduction of poverty. The preamble states that parties are "aware that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential". Art. 1 defines that the "objectives of this Convention are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources." According to Art. 2: "Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems. "Biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity."
- 26 The Food and Agriculture Organisation (FAO) is a UN specialised agency focusing on eradicating hunger through international activities. The FAO provides its services both to industrial and developing countries and acts as a neutral forum where all nations can meet as equals to negotiate agreements and debate policies. It is also a source of knowledge and information and helps developing and middle-income countries to modernise and improve their agricultural, forest and fisheries activities, aiming to ensure good nutrition for all. FAO had 197 members as of June 15, 2013.
- 27 See the UN Declaration on the Rights of Peasants and Other Persons Working in Rural Areas. According to Art. 19: "Peasants and other people working in rural areas have the right to seeds, in accordance with article 28 of the present Declaration, including:
- The right to the protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
 - The right to equitably participate in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture;
 - The right to participate in the making of decisions on matters relating to the conservation and sustainable use of plant genetic resources for food and agriculture;
 - The right to save, use, exchange and sell their farm-saved seed or propagating material.
- Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge.
 - [...]
 - States shall ensure that seeds of sufficient quality and quantity are available to peasants at the most suitable time for planting, and at an affordable price.
 - States shall recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, and to decide on the crops and species that they wish to grow."
- Art. 20.1. establishes that: "States shall take appropriate measures, in accordance with their relevant international obligations, to prevent the depletion and ensure the conservation and sustainable use of biodiversity in order to promote and protect the full enjoyment of the rights of peasants and other people working in rural areas."
- 28 2011-2020 was the UN Decade on Biodiversity. Living in Harmony with Nature. CBD.
- 29 "Plant genetic resources for food and agriculture means any genetic material of plant origin of actual or potential value for food and agriculture. The following types are included under this definition: varieties of cultivated species (both traditional and commercial), wild or feral species in contrast to cultivated ones or with current or potential value, and material obtained from genetic improvement. They play an increasingly important role in food security and development around the world, as they contribute to the capacity of agriculture to respond to changes, be they environmental or socio-economic. These resources are components of agricultural biodiversity, as they are essential to a sustainable intensification of agriculture, to guarantee the livelihoods of most women and men who depend on agriculture.
- 30 In force since January 14, 2004. Honduras is party to this Treaty, and the government is committed to adopting necessary measures for its implementation in Honduras.
- 31 ITPGRFA Art. 6.
- 32 See Principle 10 of the Rio Declaration.
- 33 See Chapter 8.3 c) of Agenda 21 of the UN Division on Sustainable Development.
- 34 See Art. 15 of ILO169; Principle 22 of the Rio Declaration; Art. 19, 23, 25, 26, 29 and 32 of UNDRIP.
- 35 See Art. 5 of the Constitution.
- 36 See Art. 2 and 6 of the Interamerican Democratic Charter.
- 37 See Art. 74 of the Law on Constitutional Justice.