HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

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Inputs toward a draft General Comment on the Application of the International Covenant on Economic, Social and Cultural Rights in Situations of Armed Conflict

Since the Covenant's adoption, the Middle East and North Africa region has continued to witness a worsening of economic, social, and cultural rights (ESCR) violations of the of its peoples as a result of the escalating frequency and scope of conflict, occupation and war (COW), widening the gap in respecting, protecting, and fulfilling the enshrined rights.

Amid the cumulative and overlapping COW crises, climate change and the deterioration of economic conditions also impede "progressive realization" of ESCRs, while policies and practices have systematically undermined substantive rights. Encouraged by the priorities of a Sustainable Development System estranged from human rights, the corresponding legal obligations Covenant have given way to mere voluntary political commitments.[1] This erosion has been further accelerated by the corporate capture of UN policy forums and implementing agencies.[2] The international community's willful failure to prevent, limit, and end COW has caused the region to suffer from a deepening tragic gap between human rights promises and the tragic reality. International jurisprudence has found intense concentration of land ownership (i.e., land concentration) as both a cause and consequence of COW situations or structural violence, emphasizing states' duty to search for the missing, protect property, and address root causes of conflict such as land inequality and forced displacement.[3]

Numerous protracted conflicts have raged through Iraq, Lebanon, Libya, Sudan, Syria, and Yemen, as well as by the prolonged illegal occupations of Palestine and Western Sahara, destroying lives, living condition and livelihoods of millions of people, displacing some 50 million persons eligible for reparation, while depriving them of their rights to food, water, adequate housing, healthcare, security of person (including due to domestic and gender-based violence), property and remedy, as well as depriving many of nationality and self-determination.[4]

The region includes seven countries ranking "high" and "very high" in intensity of current violent conflicts.[5] That violence affects approximately 60% of the region's total 430 million population, reflecting the ongoing state of forced displacement and the serious crime of population transfer, amid mounting difficulties of implementing humanitarian and development programs in those countries due to access restrictions and declining budgets relative to need.[6]

The MENA region is home to approximately 59.2 million people in urgent need of humanitarian assistance.[7] Displacement from climate-related disasters has been monitored only in the past few years, but resulting displacement has affected at least 3.4 million since 2018.[8]

The Covenant's implementation in the region is experiencing a catastrophic collapse, particularly in the context of the protracted displacement crisis. In fact, denial of ESCR is being used as weapons against the peoples of the region through starvation, sadistic population transfers and blockades on humanitarian aid, let alone states' obligations to ensure "progressive realization" and "the continuous improvement of living conditions." Exemplary is the case in Palestine, particularly the Israeli genocide in Gaza, the conflict in Sudan, especially in Darfur and Nuba Mountains.

Furthermore, in the region's COW context, systematic military doctrines aim to destroy homes and essential civilian infrastructure, forcibly displacing populations and seizing land. The practice of *domicide*[9] illustrates the scale of deliberate destruction.[10] It goes beyond mere destruction or damage of buildings, the deliberate targeting of the concept of "home" itself, and the profound social and economic consequences for families who have been displaced and lost their homes. This is clearly evident in the conflicts in Syria, occupied Palestine, especially Gaza,[11] Yemen, and Sudan, as well as Western Sahara.[12]

After 14 years of conflict in Syria, the number of homes destroyed has exceeded one million, and 7 million remain internally displaced persons (IDPs) within Syria.[13] A quarter of the population continues to live in informal settlements, lacking basic services and infrastructure.[14] Similarly, in Yemen, 40% of structures and homes have been completely damaged as a result of military operations, particularly buildings in the city of Sa`ada, while 23 million Yemenis continue to face one of the worst complex humanitarian crises, which has derogated the ESCRs of two-thirds of the population due to climate disasters, long-term and multifaceted mass displacement, severe water shortages, and economic collapse combined.[15] Furthermore, 52% of Yemeni the population faces worsening levels of food insecurity.[16] Since 2014, the number of IDPs in Yemen has increased more than tenfold, reaching 4.5 million. Women and children account for about 80% of the total IDPs, with 1.6 million of them living in informal camps. Additionally, 300,000 IDPs living outside the camps face risk eviction due to their inability to afford rent.[17]

The situation in Sudan represents the world's worst displacement crisis. Since the outbreak of war between the Rapid Support Forces (RSF) and the Sudanese Army in 2023, more than 14 million people have been displaced: 11.3 million within Sudan and at least 3.5 million beyond its borders.[18] In the regions of Darfur and Kordofan, entire communities have been wiped out because of their ethnic affiliation, and more than 235 villages have been destroyed in various areas of Sudan, mostly by militias in Darfur, since fighting broke out there in mid-April 2023.[19] The RSF began occupying civilians' homes and using them to launch attacks in Khartoum. Civilians vacated their homes, leaving behind the documents proving their ownership of land and property.

The situation is similar in the cases of Palestine and Western Sahara, where the occupying powers carry out home demolitions and forced evictions, as well as the looting of property as military doctrine, and systematic policies aim at bringing about demographic replacement (i.e., population transfer), exploiting the Indigenous People's natural resources, and depriving both Palestinian and Sahrawi Peoples of their right to self-determination.

Prolonged occupation and the implementation of the International Covenant on Economic, Social and Cultural Rights

The two situations of occupied Western Sahara and Palestine are characterized by similar issues related to political exclusion, nationalism, irredentism, resource exploitation, settler colony expansion, and denial of refugees' right of return, all within legal frameworks derived from colonial legislation. Despite numerous UN resolutions and international legal opinions, both occupations persist and have even intensified to varying degrees, highlighting the failure of UN and domestic mechanisms to enforce international human rights, humanitarian and criminal law, as well as peremptory norms.

- **Occupied Palestinian Territory:**

The oPt is subject to extreme lawfare, in which Israeli forces and institutions violate Palestinian housing rights by systematically demolishing Palestinian homes alongside a policy that restricts Palestinians' ability to build. All this implements Israel's *raison d'état* of population transfer to clear the land of its Indigenous owners and replace them with Jewish settlers. The Israeli occupation authorities have adopted a multifaceted legal and administrative system to grabbing and control Palestinian lands, including the use of amended Ottoman Land Law, British Mandate Emergency Regulations (rescinded in 1948), the Absentee Property Law, and the selective suspension or application of old Jordanian laws, thereby enabling the transfer of control over vast tracts of land and property to Israeli parastatal structures (e.g., Jewish National Fund and World Zionist Organization) and settler entities.

Military laws, emergency measures, and security considerations have also been used to seize land when it could not be controlled by other legal means, and to resort to spatial planning tools to expand illegal settler colonization, establish infrastructure for it, and classify lands as green areas, nature reserves, public interest areas, military training zones or military closed areas, in addition to the construction of the apartheid separation and annexation wall. This has led to the complete confiscation of approximately 44.5% of the West Bank and Gaza Strip, preventing Palestinians from building on it, all to maintain a settlement reserve for the benefit of settler colonies and their services and to prevent the development of a stable and geographically contiguous Palestinian state.[20]

These policies have led to a restructuring of patterns of ownership and use, and to the annexation of Palestinian land without its inhabitants. For example, the apartheid wall has isolated 724 km^2 of agricultural land and water sources behind it and deprived its Indigenous owners of access to, use of and control over those natural resources over which they are sovereign. Thereby, the colonizing Israeli occupation reinforces spatial control and undermines stable Palestinian tenure.[21] The obligations of the occupying power include respecting, protecting, and fulfilling the human rights of the Indigenous Palestinian People. However, Israel has flagrantly violated its obligations as occupying power, having displaced hundreds of thousands of Palestinians, some of whom have endured the bitterness of displacement multiple times.

The occupier continues to commit systematic violations in the West Bank and East Jerusalem, including issuing demolition orders against Palestinian homes and structures, particularly in Area C, which leads to the loss of family housing, livelihood and security, as thousands of Palestinians live in constant fear of an uncertain future without international protection by any party to the Covenant. For example, more than 28,000 Palestinian are homes threatened with demolition in East Jerusalem alone.[22] Around 37,135 Palestinian citizens were forced to leave their homes and internally displaced in the West Bank, including East Jerusalem, during 2025.[23] Additionally, 3,773 have been displaced due to punitive demolitions by Israeli authorities to make way for colonial pastoral outposts.[24]

The occupation confiscates land for the benefit of settlement projects and their various services—with a particular focus on pastoral settlements in recent times. In 2025 alone, it announced the confiscation of more than 11,200 dunams[25] and issued approximately 146 military orders, in addition to 99 orders prohibiting Palestinians access to their olive groves during the harvest season, targeting 25,000 dunams.[26] Israel also has confiscated and closed off thousands of agricultural dunams—mostly pastoral lands—to Palestinian herders, and over the past five years established more than 240 colonial pastoral outposts on those lands, controlling thousands of dunams and depriving Palestinian herders of their right to graze on their Palestinian pastures, Meanwhile, Israeli settlers engage in excessive grazing on agricultural lands.[27]

- **Western Sahara**:

Western Sahara is a non-self-governing territory on the United Nations agenda since 1963, and it is one of the last territories subject to the decolonization process. Following Spain's withdrawal in 1975, the territory's status remained unresolved, despite the International Court of Justice (ICJ) 1975 advisory opinion confirming no sovereign ties between Morocco and Western Sahara that could prevent the Sahrawis' right and claim to self-determination.[28]

Under the rules of international humanitarian law, particularly the Fourth Geneva Convention and The Hague Regulations, a state exercising effective control over a disputed territory bears clear responsibilities toward the civilian population, including protecting them, ensuring respect for their fundamental rights, and refraining from exploiting the territory in a manner detrimental to the interests of its inhabitants. However, the reality in Western Sahara reveals a range of practices that contravene these legal obligations, a matter of growing concern to human rights and humanitarian organizations.[29]

The protracted Moroccan occupation of the Western Sahara has resulted in a severe deprivation of the rights of the indigenous Sahrawi people, both within the territory and in exile, particularly the restriction of their inherent right to self-determination and to access, use and control their land, wealth, and natural resources, thereby depriving them of adequate means of subsistence as prohibited in the Covenant.[30] Rulings issued by the Court of Justice of the European Union have affirmed that Western Sahara is a territory separate and distinct from Morocco, and that any economic agreements involving the territory must be concluded with benefit to, and the consent of its people. Many international companies continue to invest in these projects, despite the illegal status of Morocco's control over Western Sahara.[31] By operating their projects on lands that belong solely to the Sahrawi people, these extraterritorial actors and their domicile states are complicit in the Moroccan plunder and illegal presence in Western Sahara.

Numerous solar energy projects and wind farm investors have exploited the lands of the Sahrawi people, which were seized with the support of the Moroccan occupation authorities and companies based in third countries, without respecting or adhering to the principle of free, prior, and informed consent, or providing any benefit to the Indigenous Sahrawi People.[32] None of the local landowners have ever been contacted, nor have they been compensated for the loss of their lands.

Furthermore, the continued occupation contributes to prolonging the refugee situation of the Sahrawi people, particularly in the Tindouf *camps* in Algeria, where at least 212,000 refugees[33] now live since their 1975 exile. As for the property and homes they left behind, Moroccan laws—imposed in flagrant violation of The Hague Regulations (Article 43)—facilitate, if not outright conduct the confiscation of Sahrawi lands and property.[34] To date, no comprehensive inventory details the extent of all such dispossessions since 1975. These harsh and illegitimate laws encourage land grabs and violate the human rights of the indigenous Sahrawi people under the guise of "legality." The area of land seized by the Kingdom of Morocco by force amounts to 21,280,000 hectares, equivalent to 80% of Western Sahara's territory, all of which is subject to compensation for the Sahrawi people for all losses, costs, and damages they have suffered since the 1975 invasion.[35]

The military occupation wall, or berm, is also linked to the widespread presence of minefields and unexploded ordnance. Some sources estimate approximately 10 million mines scattered across the region, most of them along the Moroccan wall in Western Sahara, making large parts of Western Sahara dangerous areas for civilians: travelers, herders and their animals. This has resulted in more than 6,000 casualties from various segments of the population.[36] The continued presence of these mines poses a constant threat to civilian lives and undermines peace and development efforts. It also contravenes the

humanitarian principles underlying international conventions such as the Ottawa Convention on the Prohibition of Anti-Personnel Mines. It hinders the work of the United Nations Mission and peace efforts.

The Importance and Value of the Covenant in the Context of Long-Term Occupation

In the context of the long-standing occupations of both Palestine and Western Sahara, it must be emphasized that the Covenant constitutes the most important international legal framework for guaranteeing ESCRs as legally binding rights. The importance of the Covenant is particularly evident in situations of armed conflict and prolonged occupation, where these rights become subject to structural and systematic violation.

The essential value of the Covenant also derives from its consecration of the principle of the universality of rights and the impermissibility of suspending them due to a state of conflict or occupation. The continued application of the Covenant in territories under the effective control of a state affirms that occupation does not create a legal vacuum, and that the Indigenous People under occupation does not lose or forfeit their legal status as rights holders. The occupying power remains the party responsible and bound by the fundamental minimum of rights.

The ICJ's 2004 advisory opinion on the legal consequences of the construction of the annexation and expansion wall in the oPt affirmed that the Covenant remains applicable there, and that restrictions hindering access to, use of and control over land, the enjoyment of work, education and health may constitute a violation of the state's obligations. The same effect may also apply to the wall in Western Sahara, and that any policies that lead to undermining of the Indigenous People's established tenure under occupation negate the very essence of the ESCRs guaranteed and protected under the Covenant, and that protection from forced eviction—a gross violation of human rights[37]—and arbitrary demolition constitute part of the "essential minimum" that must not be compromised, even in circumstances of armed conflict.

Moreover, both the ICJ[38] and the European Court of Justice[39] have ruled that the exploitation of natural resources in the oPt and occupied Western Sahara constitutes a systematic violation of international legal obligations, as it obviates the free, prior, and informed consent of the Palestinian and Sahrawi peoples.

In addition to their individual, collective and domestic obligations, all states parties also bear a duty to respect, protect, and fulfill human rights extraterritorially in their international relations, including in the activities of non-state actors.[40] Under the peremptory norms of international law, all states also have an obligation not to recognize, cooperate with, or support any illegal situation involving gross human rights violations, and to take "effective measures" to achieve remedy. Therefore, obligations regarding economic, social, and cultural rights must be fulfilled beyond national borders, and human rights violations must be remedied. States are obliged to ensure that gross violation victims enjoy the right to full reparation.[41]

Recommendations:

- **The right to equitable and sustainable access to, use of, and control over land is especially violated in COW situations, and the ESCR implications of land concentration amid conflict should figure prominently in the General Comment.**
- **The confiscation and reallocation of land for settler colony and related infrastructure in COW situations forms a prime example of gross violations subject to remedy and reparations, deserving ample consideration in the General Comment.**
- **COW situations exemplify how respect, protection and fulfillment of ESCRs bear both preventive and remedial functions required for system/state stability and coherence.**

- **Accordingly, states should take effective measures to prevent their agents and companies from enabling unlawful seizure of land or exploitation of resources domestically or extraterritorially.**
- **Adopting the Covenant should be understood as a basis for states to ensure reparation for victims of domicide, with priority given to restorative justice principles for restitution of land, housing, property and non-economic loss and damage (NELD) to displaced persons.**
- **Early warning mechanisms that fully integrate human rights standards to monitor and assess the rule of law to prevent and remedy the causes of domicide and COW violations of related covenanted rights.**
- **Related measures should ensure policy coherence among short-term emergency humanitarian interventions, longer-term and institution building development approaches with ESCR obligations, which serve preventive and remedial functions.**
- **Integrating housing, land and property (HLP) issues into wider transitional-justice and development processes.**
- **Establish and support international registers of costs, loss and damage with a view to including HLP rights in reparations mechanisms.**

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