**Land and the International Covenant on Economic, Social and Cultural Rights.**

As nations have recognised in the UN Charter "self-determination of peoples" (1) and the obligation of states to respect universal human rights as equal for all and under the UDHR "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized" (2), "all peoples have the right of self-determination" to "freely pursue their economic, social and cultural development" so that:

**1.** In ensuring that "all peoples may, for their own ends, freely dispose oftheir natural wealth and resources", states have to respect the "obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law" (3), without "impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources". (4)

Peoples are free to "dispose of their natural wealth and resources" also by the "international economic co-operation, based upon the principle of mutual benefit" as agreed by their elected governments, as far as such disposal is not "impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" . (5)

"The free and beneficial exercise of the sovereignty of peoples [...] over their natural resources must be furthered by the mutual respect of States based on their sovereign equality. " States "shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources". "Violation of the rights of peoples [...] to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations". (6)

**2.** The ways how states may legally allow or agree the natural wealth and resources of lands to be disposed of, have thus to respect and protect the "right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" of the land so that **"in no case may a people be deprived of its own means of subsistence".** (7)

This "economic content of the right of self-determination" as inalienable right of people to sustain their life as people by their self-determined economic means adapted to sustain such life on the land on which they live and is "essential condition for the effective guarantee [...] of individual human rights" including people's rights to life and culture of their own community. (8)

Thus, if lands, their natural wealth and resources which are integral to people's own means of subsistence by which they have fulfilled their rights to food, health, work, shelter, etc. are taken away from people - by determining such natural wealth or resources to become consumed, transferred or used for other purposes -, that violates their human rights by depriving people of using and sustaining such lands for fulfilling their human rights.

Peoples' fundamental right to self-determination over 'their natural wealth and resources' including lands, consists so in that how peoples live by such lands as determined by their rights 'to enjoy and utilize fully and freely' and thus 'for their own ends, freely dispose of' such lands to sustain their life - their way of life as adapted to those lands as integral to their identity and heritage of life as people who they are, and to fulfil their human rights.

3. **All peoples have thus inalienable right to lands as natural wealth and resources by which they are adapted to subsist and sustain their life as peoples** and realise their human rights to food, health, work, shelter, culture, etc., **also in case where a people may not have a state governance in their control, because:**

**"In no case may a people be deprived of its own means of subsistence".** (9) As human rights of peoples can not depend on whether they happen to have their own state in their control or whether they happen to be deprived of their own state or have stateless culture, peoples have equal rights to be secure in the enjoyment of their own means of subsistence - also in case of indigenous peoples or cultural or ethnic minority peoples or stateless peoples.

Peoples have right on lands which are their 'own means of subsistence' also in case where they do not have commercial ownership over such lands because the lands on which peoples' life depends are even more crucially their own means of subsistence when they can survive only by continuing to live on such land and can also not survive by money which they could get by selling away such lands.

Land and natural wealth can not thus in respect to human rights be registered primarily as commercial property but have to be used for people's own, self-determined means of subsistence by which people can fulfil their human rights.

States have thus to ensure that the "right of peoples [...] to permanent sovereignty over their natural wealth and resources must be exercised in the interest [...] of the well-being of the people" concerned including that the use "of the foreign capital [...] should be in conformity with the rules and conditions which the peoples [...] freely consider to be" needed (10) so that:

Also "in cases where authorization is granted, the capital imported and the earnings on that capital shall be governed" so that this will "ensure that there is no impairment" on people's rights to natural wealth and resources but the "reasons of public utility [...] are recognized as overriding purely individual or private interests." (11)

"People around the world depend on access to land and natural resources for survival and their livelihood" and "no one should be deprived of his or her own means of subsistence, including those deriving from land" which is often needed as "an essential element for the improvement of living conditions". Human rights are "violated when [...] marginalized peoples are not allowed to dispose freely [...] their means of subsistence." (12) As the lands and territories, by which peoples have traditionally lived belong often crucially to their own "means of subsistence", states must secure their lands as source of their nutrition and "ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples". (13)

**4.** Uses of land, its natural wealth and resources which belong to people's own means of subsistence shall thus not be allowed to become treated, determined or decidedprimarily as commercial issues or sources of commercial profits but as crucial sources of realising human rights to food, water, health, work and livelihood, shelter, culture and self-determination. States must stop the unequal cultures of official registration which favor the commercial uses of land and discriminate against diverse such ways by which lands, tenures, homes and living places have been held and used by countless vulnerable communities to secure their human rights that remain violated under such official registration.

"Land-related decision-making that ignores human rights standards often leads to the forcible eviction or displacement of people" and often "national laws and court decisions run counter to human rights obligations." (14) In respect to land states must secure "the right of everyone to [...] adequate food [...] and housing, and to the continuous improvement of living conditions" and the right "to be free from hunger" equally for all also by "reforming agrarian systems". (15)

States have to ensure that "notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction" and "take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups" taking into account that "instances of forced eviction are prima facie incompatible with" human rights. (16)

"Property status, as a prohibited ground of discrimination [...] includes real property (e.g. land ownership or tenure) and personal property (e.g. intellectual property, goods and chattels, and income), or the lack of it" and thus human rights "such as access to water services and protection from forced eviction, should not be made conditional on a person’s land tenure status, such as living in an informal settlement" or other property status such as ownership of transnational capital. (17)

Registration of land can not determine human rights. Rather human rights have to determine whether and how land titles or registrations are legally valid. The prevalent registration of lands does not treat equally many different life-heritages, who may have had other criteria than the modern registration standards for justified ways of holding the land and using it for living. If the land registration gets binding legal force but is not itself derived from human rights to adequate food, housing and living conditions, such legal force of registration undermines those human rights.

**5.** Economic rights of land use have to treat equally different cultures of economy in terms of economic human rights

Economic rights can not be rights and freedoms of dead wares, money or corporations but economic rights of the people to sustain life compliant to economic human rights.

Activities have to be legally determined as economic investments to land and to its natural wealth and resources according to that how they sustain on that land such life which realises economic, social and cultural human rights.

Regarding different cultures of economic use of land, "States should protect the special relationship of people with the territory that they have traditionally occupied when their subsistence and culture is closely linked to that territory."

"Whether measures that substantially interfere with the culturally significant economic activities of a minority community are acceptable depends on whether the members of the community were able to participate in the decision-making [...] and whether they will continue to benefit from their traditional economy." Measures affecting communities traditional economy require "free, prior and informed consent of the members of the community", ensuring also that the measures are "not to endanger the very survival of the community and its members”. (18)

"When the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk", "persons belonging to minority groups [...] or to other communities" have to be secured such "participation of in the design and implementation of laws and policies that affect them" which secures the project to "obtain their free and informed prior consent" before it can be approved. (19)

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**Notes and references**

1. UN Charter, article 1.2

2. UDHR article 28

3. ICESCR, article 1.2

4. ICESCR, article 25

5. ICESCR, articles 1.2 and 25

6. UN General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources", paragraphs 5 and 7-8

7. ICESCR, articles 1.2 and 25

8. UN Committee on Civil and Political Rights (CCPR), General Comment 12 (1984)

9. ICESCR, article 1.2

10. UN General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources", paragraphs 1-2

11. UN General Assembly resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources", paragraphs 3-4

12. E/2014/86, Report of the United Nations High Commissioner for Human Rights, paragraphs 2, 21-22 and 28-29

13. CESCR, E/C.12/2002/11, General Comment 15, Right to water, paragraph 7

14. E/2014/86, Report of the United Nations High Commissioner for Human Rights, paragraphs 12 and 74

15. ICESCR, article 11.1

16. CESCR, General Comment 4, Right to adequate housing, paragraphs 8 (a) and 18

17. CESCR, General Comment 20 on Non-discrimination, E/C.12/GC/20, paragraph 25

18. A/HRC/34/49, paragraphs 54 and 56

19. CESCR, E/C.12/GC/21, Right of everyone to take part in cultural life, paragraph 55 e