

MENA LAND FORUM THIRD SESSION



“PEOPLE'S SOVEREIGNTY AND SELF-DETERMINATION”
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Introduction

The Housing and Land rights Network of Habitat International Coalition (HIC-HLRN) is building on its two rounds of the Middle East/North Africa (MENA) Land Forum, in 2009 and 2010, to explore and develop the human rights dimensions of land. The main purpose of this consultation is to support the development of needed expertise and collaboration among civil society actors on the crucial and complex relationship of human rights to land and land administration in a time of multiple crises affecting land in the MENA region. HIC-HLRN's MENA Land Forum, 15–17 January 2012, will involve (1) an activist/expert group meeting to exchange experiences, (2) articulating a common declaration of the problems and proposed solutions to upholding land rights in MENA, (3) publication of participant papers, and (4) the further development of HIC-HLRN's bilingual on-line "Landpedia" resource for participants and the public.

The Forum, in its third round, will provide a framework for specialists to analyze and address the new situations in the region after some countries have witnessed radical change in their regimes at central and local levels. Thus, the upcoming Forum forms continuity of the themes of previous editions, but this time in a new and evolving context.

Thus, HIC-HLRN and its constituents and affiliates can support actions for exercising local and national self-determination through rights-based claims to the most basic economic, social and cultural rights. This third round will do this, based on a review of the recommendations that the participants raised second round, in October 2010.

The MENA Land Forum, this round represents an attempt to address the accumulation and positive findings of the previous two rounds, which will empower the members to focus on a few specific issues in specific countries. In light of current changes, we are proposing to convene this round under a common theme that transverses the region and coincides with the popular calls for change: peoples' sovereignty and self-determination. The winds of change have brought with them a new freedom and responsibility to exercise on the basis of common citizenship in the States which we live and work.

This theme—and human right—captures also the common pursuit of the peoples across the region for freedom of tyranny, corruption and discrimination within their States, as well as liberation from occupation and/or alien domination. Thus, we address land as an indispensable component of the right to self-determination, and people's sovereignty through the perspective of land.

Self-determination of peoples, on the national level—and its complement, autonomy, at the community level—is the most basic of the over-riding principles for implementing human rights, codified in the Human Rights Covenants.¹ Land is essential to the enjoyment of a bundle of economic, social and cultural rights that have long been neglected and violated. For instance, the right to adequate housing has been a field for poor governance across MENA, and many violations committed against peoples and communities in the region, whether by the governments themselves or external actors, have been carried out in the form of gross violations of that human right. Too often, the people—through their effective participation and free-and-informed consent—are excluded both spatially and procedurally from the very development processes displacing and dispossessing them.

¹ Common Article 1 of the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights (1966).

Also inextricably related to land and natural resources is the human right to water, which has witnessed both a tide of violations by way of privatization policies, as well as poor administration, discrimination and wasteful use patterns. Meanwhile, in some countries' new collective actions seek to include the human rights to water and equitable land access in their reformed constitutions. Some MENA countries are also facing new challenges to long-standing cross-border watercourse treaties and arrangements, which citizens and civil society share together. And all are facing the multiple challenges of climate change.

No doubt, the constant challenges in MENA region that imposed on people because of foreign occupation, confiscation of land and water as bases for livelihoods, and the consequences of water privatization will provide an evidentiary base for exploring cases and grounding specific stakeholder claims and proposals at the international, regional and local levels. Given this background, it is an organic development that now the region's scarce water resources form a crucial dimension of the self-determination of the indigenous peoples in the region, and people's sovereignty, state and interstate stability, and generally motivates this round of the MENA Land Forum.

In many ways, rights to self-determination, land and water are indivisible, both conceptually and practically, and organically central to a curriculum that can only aid and order actions, including:

- Litigation,
- Advocacy,
- Monitoring,
- Media work,
- Fact finding,
- Reparations,
- Documentation,
- Transitional justice,
- Quantification of damages,
- Human rights education and training,
- Policy formulation, analysis and reform.

This analytical approach will apply in a variety of situations, whether in cases involving:

- War,
- Reform,
- Conflict,
- Stability,
- Transition,
- Revolution,
- Climate change,
- Demographic manipulation,
- Traditional v. universal norms, or
- Any combination of the above.

Region-wide, all situations manifest in MENA.

Background

Over the past ten years, HLRN has carried out several activities with its Member organizations and constituencies in the region not only addressing “human rights dimensions of land,” but also the established human rights to (1) **adequate housing**, (2) **food/the right to feed oneself** and (3) **the right to water**. The HLRN program and the discourse on the human rights dimensions of land now faces a strategic crossroads from which to steer the efforts and activities in the region to prioritize and strategize according to the new needs and emergent issues, particularly with the unrest the region witnesses these very days.

The present initiative coincides also with other developments in the region, including important multilaterally sponsored initiatives. HLRN has engaged directly in several of these, including:

- The initiative of various local NGOs and HLRN Members, with support of international partners, to issue a [manifesto](#) (English and Arabic) on housing rights and problem-solving policies for Egypt and the region after the revolutionary events 2011;
- Developing and publishing (in English & Arabic) human rights treaty implementation indicators for pursuing and monitoring [Millennium Development Goal No. 7](#) at the midpoint in the Millennium Campaign (2007);
- Commission on Legal Empowerment of the Poor, with consultations, sectoral studies and national conferences at various stages of progress in Egypt, Jordan, Mauritania, Morocco and Yemen;
- Mobilizing and coordinating MENA civil society participation in the [World Urban Forums](#) 3 and 5, as well as organizing pedagogic and networking events on land and housing rights with a focus on Latin America and MENA;
- Training and teaching on land and housing rights, both in the academic setting (American University in Cairo) and in stand-up training for the region’s civil society Members and partners;
- Inputs into recent and upcoming treaty implementation reviews: Israel, Lebanon, Egypt, Israel, Morocco, Sudan, Syria, Turkey and Yemen (CERD), Egypt, Israel, Syria, Turkey and Yemen (CESCR); Universal Periodic Review processes (UN Human Rights Council) in relation to Egypt and [Syria](#);
- Translating, recruiting and editing regional civil society cases, and publishing the Arabic version of [Reclaiming Public Water](#), in cooperation with the Transnational Institute;
- Organizing the first and second rounds of the [MENA Land Forum](#), Cairo,
- Initiating the [Right to Water Forum in the Arab Region](#) also to mobilize civil society on the human rights dimensions of public resources;
- Training in strategic planning, housing and land rights norms and program development for new Member organizations from Nuba Mountains and Darfur (Sudan) and the Nubian community in Egypt, each posing human rights-based solutions to land conflicts;
- Coordinating Egyptian land eviction cases and civil actors’ consultation within the “[How People Face Forced Eviction](#),” in cooperation with Building and Social Housing Foundation and the Development Planning Unit of University College (London);

- Mobilizing civil society actors to participate in the Social Movements / NGOs / CSOs Parallel Forum to the [World Food Summit on Food Security](#) Rome, 13–17 November 2009;
- Developing and hosting the MENA “[Landpedia](#)” on-line resource;
- Mobilizing civil society actors to participate in the [Regional Consultation Meeting](#) on “FAO Voluntary Guidelines on responsible governance of tenure of land and other natural resources” 2-4 May 2010, Amman, Jordan;
- HLRN’s publication and distribution of the high-level fact-finding report [The Goldberg Opportunity: A Chance for Human Rights Statecraft in Israel](#) (Solutions for Applying the Recommendations of the Commission for Regulating Bedouin Settlement in the Naqab/Negev);
- Participating in UN OHCHR’s Consultation on Land and Human Rights, Geneva, 29 November–1 December 2010, Geneva; and
- Global civil society’s consolidated submission to the FAO toward the development of the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security;
- [Consolidated Changes to the First Draft of the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#) (October 2011).

HLRN has been supporting and initiating activities that build the rights-based claim to adequate housing access to public resources. The objective is to combat poverty within the international framework of MDGs and relevant binding norms. By applying the more-established (i.e., codified) norms, the symbiosis with land poses a question as to the validity and sufficiency of the already-existing human rights tools and systems. Burning challenges arising from land deprivation and the need for rights-based solutions necessitate further evolution of our moral and legal mechanisms to address increasing violations committed against individual’s and communities’ rights to land and other ESC rights.

The third Land Forum will present a rare opportunity to develop further a common, regional civil society understanding of land-use trends, and set a common research and advocacy agenda on the regional and international levels to support the most vulnerable and marginalized categories. The affected communities include those who are vulnerable to common violations under neoliberal policies (e.g., due to privatization of land, water and services), as well as in zones of conflict/occupation, in Darfur, Western Sahara, Kurdish territory, Nubia territory, Ahwaz, Palestine and Iraq.



In collaborating with some Member organizations, HLRN also has found a yawning gap between the prominent land-related problems (even well-documented ones) and

the attention that civil society and officials place on them. Civil society in the MENA region still needs to develop its tools of understanding and analysis to play a constructive role in finding alternative solutions.

Why a Forum on Land Now?

A common pattern of privatization and deprivation of rural persons' and communities' vital assets—particularly, land and water—is emerging across the globalized planet. This is no less the case in MENA, which region is also plagued with additional legacies of colonization, occupation, dependency, discrimination, [marginalization](#) and underdeveloped notions of “citizenship” and good governance. The popular uprisings across the region in 2011 and their aftermath have unearthed widespread land and real-estate corruption on the part of the discredited regimes, raising the profile of land and resource mismanagement at the expense of citizens and public assets. In addition, the region also features cultural specificity that can combine with human rights norms and corresponding treaty obligations of State that, if developed, could guide toward more-just and more-productive alternatives, including transitional justice. Meanwhile, the press, political leadership and much of civil society so far have not demonstrated the corresponding theoretical or strategic development to address the policy crisis. A catalyzing and capacity-building initiative is urgently needed.

General objectives:

The MENA Land Forum's third phase will bring to the efforts globally to pose solutions to current and prospective problems to affective access to land and water. Consistent with the HLRN Global Program, the purposes of the Forum are to:

1. Meet the growing need to confront encroaching privatization and State deregulation, particularly of the public goods and services, combining moral argument and legal authority;
2. Address the corresponding need for rights-based arguments against international policies that augur a future of severely restricted access to land and water, coincident with gravely damaged environmental and climatic systems;
3. Bring to light the role of State and civil society in posing alternatives to the deterioration of the agricultural land, particularly under the privatization of water and absence of legal land tenure guarantees;
4. Reinforce compatible activities and attempts to improve policies affecting land tenure as a measure of combating poverty (such as those mentioned above);
5. Encourage regional and international political and implementation bodies to be more consistent with the States' obligations in development matters to respect and protect human rights, particularly concerning access to, and social functions of public resources;
6. Reinforcing legal and other human rights efforts to develop norms on the human right to land (or human rights dimensions of land), applying generally;
7. Assist in the further development and application of methodologies for monitoring land and water rights (consistent with, but beyond the human rights-voided MDGs), including the development of economic indicators to

quantify the poverty-deepening consequences of land and water rights violations;

8. Supporting the human rights treaty bodies in monitoring the implementation of State obligations (as cited above), particularly with the countries that are due to report before the CESCR;
9. Develop concepts and methods for addressing gross violations of housing and land rights as war crimes and crimes against humanity in certain contexts.

Particular MENA objectives:

Consistent with HLRN's MENA Program, the Forum is designed with a view to regional specificity to pose solutions to current and prospective problems affecting access to land and water. In addition to the general objectives outlined above, the forum additionally would pursue the following region-specific accomplishments:

1. Develop the discourse on the role of State and civil society, within particular national contexts, in posing alternatives to the deterioration of the agricultural land, particularly under the privatization of water and absence of secure land tenure;
2. Contribute to the diagnosis of the land and natural resource origins of conflicts in MENA countries, and analyze the nature of the contentious land politics from the human right perspective;
3. Reinforce compatible initiatives to improve policies affecting land tenure as a measure of combating poverty (as mentioned above), with particular focus on the real or potential links among these current efforts in the MENA countries;
4. Assist in the further developing and applying methodologies for monitoring land and water rights (consistent with, but beyond the MDGs), including the development of economic indicators to quantify the poverty-deepening consequences of land and water rights violations;
5. Translate and disseminate important civil society documents claiming rights to land and natural resources, such as the ICARRD Declaration, the LVC Declaration on the Rights of Peasants – Men and Women, etc.
6. Reinforcing legal and other human rights efforts to develop norms on land's human rights dimensions with relevance to such cases of deprivation as Palestine, Iraq, Nuba Mountains (South Kordofan, Sudan), Western Sahara, Ahwaz (Iran), Darfur (Sudan), Nubian, Amazigh and Kurdish territories within existing states;
7. Explore and develop the constructive Islamic and other traditional concepts and tools for ensuring equitable distribution of land and water as public goods;
8. Address women's rights to land tenure and inheritance with multiple methods of rights claims (i.e., traditional norms, Islamic precepts, international law);
9. As a specialized global network with a MENA regional program, HLRN seeks to refine its activities with Members, particularly as a follow-up to a presenting parallel reports and implementing the Concluding Observations of the concerned treaty bodies.

Land rights, particularly in the context of developing countries, are inextricably linked with the right to food, the right to work and a host of other human rights. In many instances, the right to land is bound up with a community's identity, its livelihood and thus its very survival.

Module 18, Land Rights, Circle of Rights, Economic, Social and Cultural Rights, at:
<http://www1.umn.edu/humanrts/educmat/IHRIP/circle/modules/module18.htm>

Land is a resource integral to survival, livelihood and adequate housing.

The **state** must provide for equitable distribution with emphasis on the provision of necessary resources for poor households

Governments must implement **land reforms** where necessary to ensure its fair distribution as a public good and protect the landed property rights of land-based and indigenous peoples from encroachment.

Timing

HLRN had proposed to organize the Land Forum III session in mid-September, after the CSO consultation process on the FAO Guidelines has progressed, and in advance of the final adoption in mid-October. However, local conditions at the venue (elections and unrest in Egypt) have caused a postponement. Meanwhile, the consultations on the FAO Guidelines have been prolonged into 2012. Therefore, the postponement of the Forum until January 2012 is both prudent and still timely.

Themes

The forum would convene the expert participants under the general theme of "right to land and natural resources." Themes will relate to actual processes ongoing in the region and beyond, including questions of climate change, good land-tenure governance and the link between land and the right to water (reclaiming public resources). However, in developing the regional perspective on the problems and corresponding solutions, the deliberation of themes will contribute to the regional research and advocacy agenda.

The discussions will address a series of analytical papers that participants from each country will prepare. (In the case of more than one participant per country, that task will be shared in a complementary fashion.) Within that general theme of land and self-determination, each country paper would present the situation in that country, covering the most prevalent developments affecting access to, and social functions of land. Therefore, depending on the national circumstances, each paper will analyze a combination of the following:

- Water and environment;
- Conflict, occupation and/or war;
- Gender and tenure/inheritance;
- Land and natural resources in the urban context;
- Development and implementation of international norms;
- Economic policies, including privatization, mechanization, foreign investment.

Standard will be gender and women's land rights, traditional v. neoliberal practices and policies, as well as cases of conflict and occupation. The third Land Forum will include a practical feature, organizing an expert-guided roundtable on law and policy reform in the region, in order to develop the advocacy agenda.

The papers each will have a strategic and action-oriented component, which would begin with a report on the status of current campaigns and initiatives at the various levels, including, for example, those efforts' relation to:

- Multilateral:
 - World Urban Campaign (UN HABITAT),
 - Cities without Slums campaign,
 - MDG 7 progress,
 - Global Land Tools Network,
 - FAO Voluntary Guidelines on Responsible Governance in Administration of Land and Natural Resource Tenure
 - Other multilateral and government-to-government programs and projects.
- National:
 - Constitutional, law and institutional reforms arising from the region's revolutionary processes,
 - National Institutions for Human Rights,
 - Land commissions,
 - New farmers unions,
 - Transitional justice, including reparations mechanisms,
 - Other national programs and/or campaigns.
- Civil:
 - La Via Campesina "Peasant Rights Charter,"
 - "Right to the City" Charter and campaign,
 - CSO participation in the FAP Guidelines,
 - World Social Forum focus on rights to land and water,
 - National law/land/constitutional reform processes,
 - New mechanisms of participation arising from the region's revolutionary and reform processes.

Finally, the expert/author would proffer her/his recommendations for further corrective action to be undertaken to apply (and develop) the human rights framework to ensure equitable land use toward its optimal social functions. Such recommendations should be directed at duty holders and other stakeholders, including the civil society represented in the forum:

- Government (executive, legislative and judicial branches);
- Multilateral agencies;
- Human Rights System, including political, factual, implementation and legal (treaty-monitoring) bodies;
- Judicial bodies/processes;
- Donors and development agencies;
- Civil society.

In order to conduct the forum in January 2012, HLRN proposes that country situation papers be completed by end December 2011. A competent editor will compile them and HLRN will distribute them to the participants.

Thematic workshops

The thematic workshops would allow for deeper discussion and strategy exchange that bonds participants in their concerns and prospective activities across the subregions, but on the basis of common specializations and interests that transcend State borders. The workshop themes would relate to those general topics posed above:

- Water and environment;
- Conflict, occupation and/or war;
- Gender and tenure/inheritance;
- Development and implementation of international norms;
- Economic policies, including privatization, mechanization, foreign investment.

The workshop would be facilitated with strategic-planning criteria and techniques, in order to extract the most practical outcome and commitments to joint action from the region-wide pool of participants.

Final plenary

In plenary again, the thematic workshop groups would reconvene to share findings and announce commitments to further work/action. That exercise has a dual purpose:

1. To inform the participants of the developments in the other thematic areas about their forum colleagues' accomplishments;
2. To link the cross-cutting and related issues in practical and mutually supporting ways.

Media Relations, Press Conference

The conference would produce a common statement on the human rights dimensions of water and land in the MENA region. That statement would be the principal vehicle for a press conference in order to publicize the issues and launch the new stage of regional discourse and common work toward problem solving in the fundamental and neglected issues affecting land, natural resources and, consequently, all inhabitants of the MENA region.