



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition



NUBA MOUNTAINS INTERNATIONAL ASSOCIATION (N.M.I.A) SUDAN
رابطة أبناء جبال النوبة العالمية - السودان
بالقاهرة

المرصد السوداني لحقوق الإنسان The Sudanese Human Rights Monitor

مبادرة السلام الاجتماعي لدارفور لأجل حقوق الأرض والسكن
Social Peace Initiative for Darfur Housing and Land Rights



Cairo, 25 August 2015

Waleed Sadi, chairperson
Committee on Economic, Social and Cultural Rights
OHCHR
Palais Wilson
Geneva, Switzerland

Dear Mr. Sadi:

It is with a sense of commitment to the full implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) that this group of civil society organizations presents the attached parallel report to the Committee on Economic, Social and Cultural Rights (CESCR) for its current review of the state party, Republic of Sudan. This report provides information in response to CESCR's issues 2, 16–20 and 25, related to ICESCR Articles 1, 11 and 15.

Sudan acceded to ICESCR in 1986 and assumed the obligation to ensure “the maximum of available resources,” the “progressive realization” of the enshrined rights, toward achieving their progressive realization, including the “continuous improvement of living conditions” through “international assistance and cooperation” [Article 2.1]. However, successive Sudanese governments have failed majestically at meeting these international obligations to respect, protect and fulfill ESCRs for the people living within the state party's jurisdiction. In many ways, the conditions reviewed in 2000 have deteriorated, despite the development and/or humanitarian efforts of both the Government of Sudan (GoS) and decisive external parties.

In its last review of Sudan's ICESCR performance, the Committee observed that “the continuation of the war in southern Sudan is still adversely affecting the achievement of conditions conducive to the enjoyment of economic, social and cultural rights in the whole of the Sudan” [para. 14]. In addition, the Committee expressed its concern about “the reported resort to the weapon of

deprivation of food and the creation of a man-made famine as an instrument of war, coupled with the diversion of humanitarian food aid supplies from groups of the population in need” [para. 25]. Already 15 years ago, the Committee was also gravely concerned about the considerable number of internally displaced persons (IDPs) [para. 26].

The Committee did not make corresponding recommendations related to these gross violations (and crimes), but notably urged the state party to “address the root causes” of the IDP problem and to engage in international cooperation, in order to provide for adequate (interim) measures ensuring IDPs’ basic needs such as adequate basic shelter, employment, food and health care, and the continuation of education for IDP children [para. 37].

At the same time, CESCR regretted “the lack of precise information and reliable comparable statistics, which has hampered its full assessment of the progressive implementation of the Covenant in the Sudan” [para. 21].

The human rights related to land use and administration have been a principal factor in the violation of ESCRs coincident with the major conflicts in Sudan culminating since the adoption of the 1970 Unregistered Lands Act and the 1984 Civil Transaction Act. Implementation of the Unregistered Lands Act law has emerged as a **root cause** of gross violations of ESCRs and, particularly, has generated related conflicts reflecting the contradictions between the customary land-tenure systems and the statutory title-based system. This conflict is most evident in several stricken areas such as Nuba Mountains, Blue Nile and Darfur. However, legislation and government policy have perpetuated the temporal and geographical continuum of ESC human rights violations and conflict throughout the review period (2010–15). Before and since the separation of South Sudan, the human rights dimensions of land have been pressing Covenant implementation issues in Sudan. In the present review, the Committee has another opportunity to address these indispensable aspects of the Covenant’s implementation.

The continuous single-party-dominated GoS has not taken sufficient preventive or corrective measures throughout the review period to implement the Covenant toward the improvement of the state’s ESCR performance. The impoverishment, systematic discrimination, deprivation of the means of subsistence, displacement, dispossession and conflict observed in the ICERD observations already in 1994 have continued in a seamless pattern,¹ resulting in the dismemberment of the former state in 2011.

In the long interim since the Committee’s last review of Sudan, many things have changed, while much has remained the same. The country has promulgated a new Interim National Constitution (2004), which has been in place for a decade already. The civil war with the South has resulted in South Sudan’s independence (2011); however, other regions remain characterized by underdevelopment, armed conflict, displacement and dispossession of the civilian population.

In Darfur, the land commission required by the Darfur Peace Agreement has been formally operational since 2007 and has provided information and policy recommendations to improve land governance. However, the Darfur Land Commission faces considerable challenges due to fiscal and technical-capacity constraints and lack of coordination with other government institutions, particularly at the national level. Nor does it operationalize the reparations standard

defined by the UN General Assembly.² GoS has yet to establish the commissions at the national level and in the States of South Kordofan and Blue Nile that were supposed to arbitrate land disputes, recommend land policy reforms and identify mechanisms for recognizing customary land rights.³

That is not to say that the situation of human rights to land and human habitat in Sudan has remained stagnant. Within the period of this review, Sudan has joined the five countries in Africa most targeted by foreign investors and the transnational corporations seeking land acquisition for profit.⁴ The privatization of land, displacement, violent conflict, corruption and foreign investment now occlude overtly as a combination of factors in which **land is central** to either violating or implementing a bundle of ESC rights, fomenting conflict, or instituting peace.

Contrastingly, the same period also coincides with the development and consolidation of good practice norms for responsible governance in land-tenure administration at the global level. The present parallel submission makes reference to these **recent normative developments** as tools for current and future operationalization and monitoring of ESCRs, including ICESCR state party reviews and recommendations to governments.

Our focus on natural-resource administration emphasizes not only the human rights function of land in any country review. This line of inquiry has particular relevance to Sudan, a country in which 80% of the population relies on natural resources for their livelihood.⁵ This parallel report also identifies how **extraterritorial obligations** of Sudan and other states parties to the Covenant relate to the respect, protection and—depending on the degree of “decisive influence”⁶—fulfillment of the covenanted rights.

Most importantly, the present submission of Habitat International Coalition, its Housing and Land Rights Network and local Member organizations, Group on Economic, Social and Cultural Rights, Nuba Mountains International Association and other contributing sources (in citation) seek to **identify root causes** of the ESCR challenges and violations to the extent that the Committee’s List of Issues permits. The conclusion and recommendations here also address root causes and current preventive and remedial norms for land administration to achieve the common objective of ICESCR implementation.

We thank you for this opportunity to contribute to the Committee’s review and deliberations, and we remain available for further consultation, where appropriate. In the meantime, please be assured of our highest consideration.

Sincerely,

Housing and Land Rights Network – Habitat International Coalition (Geneva and Cairo)
Social Peace Initiative for Darfur for Housing and Land Rights (Netherlands)
Nuba Mountains International Association (Cairo)
Sudanese Human Rights Monitor (Khartoum)

Article 1, paragraph 2 – Natural wealth and resources

Issue 2: Please provide information on the extent to which the free, prior and informed consent [FPIC] of those affected by development projects, such as the construction of the dam referred to in paragraph 84 of the State party report (E/C.12/SDN/2), is guaranteed in law and in practice. Please explain how the State party ensures that the exploitation of natural resources leads to tangible improvements in the enjoyment of the economic, social and cultural rights of its population.

While ostensibly serving national-development goals, Sudan's construction of mega dams on the Nile River has institutionalized a pattern of ESCR violations and displacement of communities, depriving them of their livelihoods. The construction of the Merowe Dam in northern Sudan [para. 84 in the country report] surpasses world records by having displaced more than 60,000 people from their fertile and productive lands in 2006–2009. Despite the economic rights consequences, this project also has flooded invaluable archaeological heritage. The affected people still protest their displacement and demand resettlement along the banks of the new reservoir.⁷

Already in November 2002, violence erupted in the Hamdāb area after the Merowe Dam authorities—then under the Ministry of Irrigation and Water Resources—refused to recognize and negotiate with the elected committee representing the affected communities. Further unrest followed attempts by the dam authorities to conduct a socio-economic survey against the communities' wishes.

In April 2006, Special Forces linked to the dam authorities opened fire on a peaceful gathering of villagers who were meeting to discuss the planned survey, killing three people and injuring 47. The shootings led to negotiations between the Amri and a ministerial committee.⁸ The parties reached a compromise in early May, whereby the GoS agreed to consider the communities' grievances, while the affected people resolved to allow the socio-economic survey to take place.⁹

In August 2006, central government authorities forced more than 2,740 families (13,700 people)¹⁰ to abandon their 1,130 homes and their lands upstream of the Merowe Dam, being constructed on the Nile River in Sudan's Northern State. Without warning and in advance of the planned date for operating the dam, the Merowe's Dam Implementation Unit (DIU), a GoS agency newly under the direct supervision of the President of Sudan, flooded the Amri community's villages.¹¹ The destruction caused the loss of at least 12,000 head of livestock (worth about US\$ 1.2 million) and 10 billion Sudanese pounds (roughly US\$ 5 million) in crops and fodder.

The Amri people, who make up about a quarter of the dam-affected population, widely believed that the August 2006 flooding was part of a deliberate DIU strategy to force the Amri to capitulate to a resettlement package that they had rejected.

Despite a history of Sudan pioneering environmental impact assessments (EIAs) prior to development projects and the ample Sudanese expertise available today,¹² GoS never required EIAs or social impact assessments for any of the mega dam projects and did not conduct consultations in the project areas with the local communities facing massive forced evictions and the destruction of their livelihoods.¹³

In 2007, the security forces cracked down on indigenous people's protests, killing four and injuring 20 people as they opposed the Kajbar Dam. The UN Special Rapporteur on adequate housing and the UN Special Rapporteur on Sudan deplored this excessive force against the Nubian population and, in two consecutive communications to GoS, asked for a halt to construction. He urged GoS to comply fully with international human rights standards and to consider applying the UN *Basic Principles and guidelines on development-based evictions and displacement*.¹⁴

In 2011, the Sudan government started to build the Dal and Kajbar Dams, on the Nile's second and third cataracts, respectively, to generate 360 megawatts per annum. GoS contracted a Chinese company for the project at US\$ 705 million over five years. The projects will submerge 90 villages and displace more than 20,000 people. Kajbar Dam will submerge 500 archeological sites, including ancient Nubia.¹⁵

In 2013, the Seteet DIU grabbed 4,000 acres (1,618.7 hectares) of land belonging to 350 farmers. Meanwhile, local pastoralists also face an existential threat, as they will not find grazing areas after the inundation, with no safeguards for alternative pasture for 1,600,000 head of livestock.¹⁶ Applying a custom codified at least since the English occupation of Ireland,¹⁷ the pastoralists, by definition, have no land tenure subject to reparation, replacement or mere compensation. Despite commitments to the contrary, the DIU began flooding the lands without remedy for the affected people's losses.¹⁸

Furthermore, the DIU deprived the farmers around the confiscated land from accessing irrigation canals to irrigate their lands. Rather, irrigation infrastructure will be reserved to irrigate foreign investors' lands, also reducing the grazing lands. This development pattern impoverishes both the local farmers and the pastoral community as the land becomes massively cultivated for external interests.

The local Small Farmers Union and the Dam-affected People's Committee accuse the dam administration of stealing thousands of hectares of citizen-owned agricultural land without compensation or even prior notice. The most-affected and displaced small farmers and pastoralists cannot negotiate adequate terms for their own survival against the combined national and international beneficiaries of the project. Nor can they enforce safeguard agreements under current investment legislation in case the domestic or foreign investors fail to implement promises to provide local jobs and/or facilities.¹⁹

Also, in other gross violations, in 2015, the DIU forcibly displaced 150,000 people from the Upper Atbara and Seteet Dam site, between Kassala and Gedarif states. Without FPIC or consultation, the DIU reportedly first displaced 500 families in Wad al-Hilu last February, and then displaced another 10,000 families in March 2015.²⁰

In the midst of this review period, Sudan expert Alex de Waal has concluded:

"Ever since colonial days, the government has felt it can move people about at will. After the first civil war ended in 1972, Khartoum's rulers and their international donors went for a headlong rush for growth through mega-projects without consulting the people first, and sowed the seeds for a second war 10 years later."²¹

Article 11 – The human right to an adequate standard of living

Issue 16: Please indicate whether the high rate of inflation has exacerbated the level of poverty, especially for the most disadvantaged and marginalized individuals and groups.

The inflation rate is an important indicator of economic performance in the country; however, it counts as one of the symptoms of governance, rather than a key causative factor in the deterioration of living conditions.

In the period under review, the national incidence of poverty has risen from 40%, in 2004, to 46.5%, in 2009.²² This **retrogression** has ranked Sudan as number 30 among countries with high proportions of impoverished populations (living below the less-than-US\$1-a-day poverty line).²³

Measuring poverty by income level is a less-relevant indicator for many people living off the land and natural resources, forming the 80% majority. However, that indicator becomes more relevant as a people is “deprived of its own means of subsistence” [Article 1.2]. Income replacing subsistence from the land is not a human rights violation; however, depriving both to enrich private interests has been disastrous for the state party’s performance of the Covenant.

However, Sudan has made progress toward several of the Millennium Development Goals (MDGs), such as in education (MDG 2), infant and child mortality (MDGs 4 and 5), access to water and sanitation (MDG 7). Sudan’s MDG performance on other Goals demonstrates large inequalities with respect to gender (MDG 3), rural and urban living conditions (MDG 7), and national, regional and sub-regional levels.²⁴ The significant disparity among regions has contributed to growing inequalities and unbalanced development in Sudan during the current review period (see Tables 1 and 2 below).²⁵

Table 1 – Regional Disparity in demographic and economic structure and achievements in MDGs in Northern Sudan (2005–2009)									
Region:			Northern	Khartoum	Central	Kordofan	Darfur	Eastern	Total
Demographic and economic structure (2005–2008)									
Population ^a	2008	Total	1,819	5,274	7,423	4,327	7,516	4,534	30,893
		Share (%)	5%	13%	19%	11%	19%	12%	100%
Revenues ^b	2005	Total	14,853	15,678	19,267	9,546	10,628	25,382	95,354
		Share (%)	16%	16%	20%	10%	11%	27%	100%
Actual per capita federal allocation ^b	2005	Total	9,068	8,497	4,872	3,765	2,732	2,553	5,248
Urbanization ^b	2005	Total	27%	88%	29%	29%	20%	43%	39%
MDGs ^c (2009)									
Poverty gap ratio	MDG 1.2	Total	9.4	6.4	13.8	23.1	24.6	17.7	16.2
Net enrolment rate in primary education	MDG 2.1	Total	83	85	67	60	62	57	67
Literacy rate of 15–24-year olds	MDG 2.3.1	Total	88	94	77	69	74	63	77
Literacy rate of 15–24-year olds	MDG 2.3.2	Men	91	96	84	79	85	68	84
Literacy rate of 15–24-year olds	MDG 2.3.3	Women	86	92	70	61	64	57	71
Share of women in wage employment in nonagricultural sector	MDG 3.2	Total	15	19	13	19	22	12	17
Employment ratio to population 15 years old and above	MDG 1.5	Total	35.9	37	41.3	48.5	45.3	39	41.4
Proportion of employed population below poverty line	MDG 1.6	Total	30.1	21	41.5	55.5	58.8	39.2	42.5
Proportion of own account and contributing family workers to total employed	MDG 1.7	Total	39.2	25.3	36	39.8	50	46.7	45

Sources: (a) Adapted from Sudan Central Bureau of Statistics Population Census Data (2010), in thousands: The Fifth Sudan Population and Housing Census (2008) (b) Elbadawi and Suleiman (2008: 107) (c) the Sudan Central Bureau of Statistics (2011: 12).

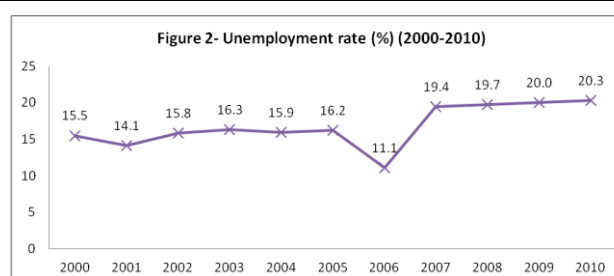
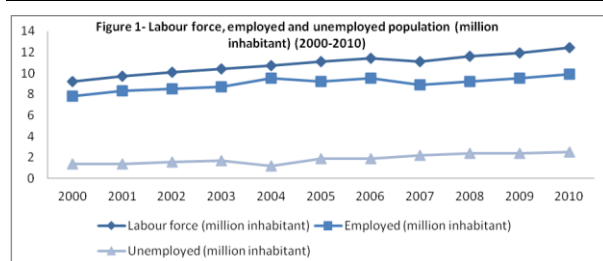
In power since 1989, the Sudanese government of President Omar al-Bashir and the ruling National Congress Party (NCP) has presided over this dramatic deterioration in living conditions since the last CESC review in 2000. The sharp economic downturn after the 2011 independence of South Sudan, which holds the greatest portion of the pre-2011 Sudan's oil reserves, has increased and deepened the most-recent poverty rise. The political and military developments necessitating the secession of South Sudan caused, in turn, the loss of more than 75% of the country's former oil reserves and more than 50% of the revenues for the pre-2011 North.²⁶

Table 2 - Labor force and unemployment rate indicators in Sudan (2000–2010)

Item/year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Labor force (million inhabitants)	9.2	9.7	10.1	10.4	10.7	11.1	11.4	11.1	11.6	11.9	12.4
Employed (million inhabitants)	7.8	8.3	8.5	8.7	9.5	9.2	9.5	8.9	9.2	9.5	9.9
Unemployed (million inhabitants)	1.4	1.4	1.6	1.7	1.2	1.9	1.9	2.2	2.4	2.4	2.5
Unemployment rate (%)	15.5	14.1	15.8	16.3	15.9	16.2	11.1	19.4	19.7	20.0	20.3

Source: Sudan Ministry of Labour and Human Resources (MoLHR) (unpublished data and statistics).

Figures 1- 2- Labor force, employed and unemployed population and unemployment rate (%) in Sudan (2000–2010)



Source: Adapted from Sudan Ministry of Labour (unpublished data and statistics)

Conflict within the Nuba Mountains is emblematic of the GoS policies applied since 2000. This conflict is fought less over ethnicity than over livelihoods and the existing communities' need for land to sustain them. The conflicts are raging between agro-pastoralist and nomads, and nomads and farmers versus large-scale mechanized farms. The underlying causes are related to land resources and the violation of customary tenure by government and state-sponsored agents. These underlying factors of the continuous violation of covenanted rights are many, but can be summarized as:

- Competition over natural resources (land, pasture, water & oil)
- Land Policies (disconnect between government policies and customary land laws)
- In-equitable resource distribution (specifically land and oil revenues).

Within these broad lines is an open field for corruption in land administration. (Please see ANNEX for specificity on the subject of Domestic Land Grabbing as a Form of Official Corruption.)

Encroachment and appropriation of former rangelands by the government-sponsored mechanized schemes has left a legacy of displacement for local communities and adversely affected agricultural and pastoral patterns, further reducing the available grazing land for the many transhumant pastoralists and agropastoralists. This, in turn, has fueled animosity between the sedentary agro-

pastoralist and the nomads—who are primarily of Arab ethnicity—transforming the conflicts into ostensible ethnic rivalries.

In the past, sedentary pastoralists grazed their livestock in demarcated communal rangelands, which tribal leaders/elders managed. These rangelands along with the demarcated stock routes since have declined with the growth of mechanized agriculture, including foreign direct investment, which legislative and policy developments increasingly have favored at the expense of local livelihoods.²⁷

Displaced local communities were also forced to encroach on former rangelands and forestlands for cultivation, thus, reducing available grazing lands for pastoralists. Some absentee landlords (e.g., Jellaba landlords, senior government officials, military officers), who benefited from the large-scale government schemes.²⁸ The absence of alternative sources of livelihoods for the communities' has impoverished them and heightened tension over available land and water resources.²⁹

A civil servant has testified to the method of land seizure by powerful and well-connected officials, dispossessing, enclosing and displacing the affected indigenous inhabitants:

The government just demarcates land, regardless of the realities of the area; they do not care if there are villages in this land or not. In the area of Habila, in the Nuba Mountains, mechanized farms have circled many villages.

There is no more land for the Nuba; no land for farming and no land for the animals to graze. The Nuba are squeezed and have to choose between two options: either leave the area to work for the government as soldiers, or become workers in a mechanized farming scheme.³⁰

This headlong pursuit of mechanized farming precipitated conflict, particularly in the Nuba Mountains and Blue Nile State. However, this reflected also a deviation from earlier government plans to promote mechanized farming which also led to the rapid degradation of prime land.³¹

Since 2011 and following the independence of South Sudan, the GoS started to implement the recommendations of the International Monetary Fund by applying austerity measures, including fuel-subsidy cuts, and facilitated the foreign investment in the agricultural sector to compensate for the loss of the bulk of petroleum resources. That has led to policies enabling land grabs at the expense of Sudanese small-holder farmers, and in the interest of foreign investors by “lifting the judiciary’s oversight over land sales, reforming land relations, and allowing foreign investors to grab as much land as possible.”³² This phenomenon has had a decisive effect on the inflated prices of land and other productive inputs for Sudanese people, the vast majority of whom rely on natural resources for their livelihood.

The IMF’s Interim Poverty Reduction Strategy has evolved into a core national strategic instrument for planning and budgeting and strategizing for the long term. The IPRS Paper (IPRSP) reflects and builds on the various sectoral and national plans prepared by the government to address poverty-reduction challenges, and the interim strategy is anchored to four pillars: (i) strengthening governance and the institutional capacity of the public sector; (ii) reintegrating internally displaced persons (IDPs) and other displaced populations; (iii) developing human resources; and (iv) promoting economic growth and employment creation.

All of these four pillars are inter-related, especially with regard to the use and development of natural resources, foremost among them being land. Sudan already has earned its place among the top five African countries in land-grabbing cases since 2009. Building on the earlier discussions on the key pillars

of governance, reintegration and human resources, the IPRSP pegs employment creation under four sub-pillars: enabling macroeconomic environment for growth; enabling environment for private-sector growth; enhancing productivity and growth in agriculture; strengthening economic services for recovery and growth; and protection of natural resources and the environment.³³ The IPRSP cites Sudan's obligations under ICESCR, while addressing property rights.³⁴ It acknowledges the importance of land and its related conflicts, while asserting that traditional land management is "an obstacle to investments in the land and the commercialization and growth of agriculture."³⁵

Land Grabbing, Impoverishment and ESCRs

Besides the negative impacts on civil and political (process) rights arising from the lack of transparency in expanding large-scale commercial farmland, government practices have violated a bundle of local communities' ESCRs by displacing them from their land, causing grave consequences for human rights to adequate housing, decent work, food, water, health and participation in culture, in addition to ecological damage.³⁶

In the last two decades, GoS has not sought to improve the traditional agricultural sector, focusing more on irrigated and rain-fed mechanized agricultural systems, expanding cash crops at the expense of the food crops. This is done by using state power to confiscate land from small farmers and the indigenous communities in favor the agricultural investment. In effect, that policy has deprived the traditional farmers and pastoralists from using the land to cultivate subsistence crops and ensuring the recuperation of soil fertility from drought and desertification.³⁷

By 2009, we saw one million acres (404,686 hectares) transferred into the hands of U.S. firms, and 2.4 million acres (809,371.45 hectares) transferred to Saudi Arabian firms.³⁸ Saudi Arabia, Qatar, United Arab Emirates (UAE), Egypt and the Republic of South Korea have been the principal sources of land investments in Sudan, taking 1.5 million hectares of agricultural lands.³⁹ This has coincided with dire adequate-standard-of-living consequences, whereas 80% of Sudan's population in the rural areas depends directly on natural resources for their livelihood in cultivation and livestock.⁴⁰

In 2012, GoS Ministries of Agriculture and Finance contracted a 50-year lease with Saudi Arabian investors for 2.4 million acres (809,371 hectares) of farmland near Port Sudan (Red Sea). The deal came with unique privileges and tax exemptions as a "free zone," producing and selling food to the Saudi company.⁴¹ UAE investors have leased 100,000 hectares of farmland under similar terms.⁴²

In March 2013, Sudan's president approved the National Investment Encouragement Act to replace the Investment Encouragement Act 1999, as amended in 2007. The new law provided more privileges to foreign investors and legalized land grabbing.⁴³ The new Land Investment Law (2013), drafted by Supreme Council for Investment's Mustafa Osman, sought to improve the foreign investment climate through greater incentives and investment guarantees, tax and customs exemptions, while liberalizing foreign land ownership, which was not permitted under the previous act.⁴⁴

In 2013, the GoS also allocated 2 million acres (809,371.3 hectares) to private Egyptian investors in northern Sudan.⁴⁵ Qatari investors now own about 106,000 hectares of agricultural Nile riverbank, while South Korean investors have leased 400,000 acres (161,874.26 hectares) for 33 years in al-Jazira project at US\$ 1 for each acre (0.404686 hectares).⁴⁶ (See **Al-Jazira Project** below.)

On 15 February 2013, the Sennar state authorities confiscated 415,000 acres (167,945 hectares) from the small farmers without consultation or compensation in favor of a Saudi company for export of cereal production.⁴⁷ Also, in 30 of March 2013, the authority of White Nile State issued decision to confiscate 180,000 feddans (72,843 hectares) owned by traditional farmers for an unregistered private-investment company, without consultation or compensation for their lands. The land constituted the only source of livelihood for the community of Aba Island.⁴⁸

In July 2015, the Northern State's Ministry of Agricultural confiscated 400 acres (161.9 hectares) of agricultural land from 80 families in Allar village, Merowe locality, to sell to Turkish and Saudi investors who are expected to cultivate nontraditional export crops. The Ministry dispossessed the community on the pretext that their lands were fallow, while local farmers complained that the government had failed to install the promised irrigation infrastructure. This loss of land, local production and transformation of the local agricultural system will fundamentally affect the community's already-precarious economic viability.⁴⁹

Global land acquirers typically target liberalizing and conflict-ridden countries, like Sudan, with weak cadastral records and systems of formal rural land tenure. Many subsequent land deals have failed in implementation, while the acquired land was not used. Private and foreign investors characteristically neglect the infrastructure and supporting institutions. Local communities often are displaced from their land and their livelihood is wiped out, without adequate reparations (including compensation) or materialization of any of the vaguely promised benefits such as job creation and development as alternative sources of livelihood for those who have been displaced.⁵⁰

Historically, land tenure insecurity has resulted from the imposition of formal law that does not recognize individual rights to unregistered land. State authorities have considered unregistered land to be state land and, thus, available for the government to transfer to private commercial interests, the military, land speculators and political elites without regard for customary rights.

Nepotism has played a decisive role in privatization contracting. Local companies with ties to the NCP and international companies with Islamic-oriented company connections have won most government contracts for major agricultural investment and/or construction and infrastructure projects (e.g., Merowe Dam, roads, and bridges).⁵¹ Such contracting processes evade proper procurement procedures; even the subcontracts with local companies typically are those connected to the NCP.

Inflation in the formal market quite aside, the consequences have foreclosed livelihoods for the affected indigenous people, while introducing unprecedented inter-ethnic conflicts.⁵² The displaced populations then become subjects of the international community's relief and/or development interventions, which typically distort local prices, as well as production and consumption patterns, at great expense to donors and development agencies.

For most Sudanese residents the price of accessing urban land and housing in the capital, Khartoum, has become prohibitive, due to the government's privatization and sale of public land, property and services. (See **Issue 19** below.) This distorting privatization process has led to many land brokers and speculators entering the property market, consequent corruption and money laundering at unprecedented levels. Meanwhile, the Land Commission mentioned in the 2004 Comprehensive

Peace Agreement (CPA) and the 2005 Interim National Constitution of the Republic of Sudan⁵³ have not been formed until now. They were to be responsible for land reform and planning to address the fragmented legal framework of the land-tenure system.

At the root of many such confiscations and failure to implement CPA commitments related to land is an outdated Land Confiscation Law (1930), authorizing the President of the Republic or his representative to confiscate lands (with compensation). This authorization subordinates customary rights. The individual states (*wilayāt*) in Sudan maintain local legislation regulating land acquisition.⁵⁴

Al-Jazīra Project

To wit, the agricultural al-Jazīra Project covers 2 million feddans (roughly 80,937 hectares) of land between the Blue and White Nile Rivers and employs 130,000 farmers. It is the oldest of all of Sudan's major agricultural schemes and the clearest example government policies and practices that grossly violated economic, social and cultural rights of impoverished people by dispossessing them of their lands.⁵⁵ (See p. 6 above.)

In 2005, the legislated and presidentially approved amendments to the al-Jazīra Land Law (1927) regulating al-Jazīra Project newly enabled privatizing the small farmers' land by opening it to investment speculation. The 2005 privatization legalized private ownership in the area of the project at the expense of traditional inhabitants, displacing 128,000 family farmers and their families. Meanwhile, the new legislation empowered the banks and companies linked with the ruling NCP to control and benefit from the proceeds of the corresponding public companies.⁵⁶ The government still forcibly leased land from its owners at 1927 rates; 40 years after the lease had expired. The government even ceased those payments since the early 1980s.⁵⁷

These practices and the negative impacts of the privatization of communal and traditionally held lands have led to several protests by people affected by land and property loss. Some court petitions seeking restitution from past decades still await the court's decision.

While many ongoing disputes and issues would benefit from the state party's application of the Committee's General Comments, the review period also has seen the emergence of important norms specifying good practice and implementation of covenanted rights related to land and displacement, which serve as tools for the state party to apply consistent with its ICESCR obligations.⁵⁸ These also serve in the absence of a much-needed CESCR **General Comment on the human rights dimensions of land**.

In particular also, the CFS *Framework for Action for Food Security and Nutrition in Protracted Crises* explicitly recognizes the "coordination of policies and actions taken in the fields of humanitarian assistance, development and human rights" as an over-riding principle to ensure the integration and complementarity of the three approaches into a long-needed single, integrated strategy in national and international, preventive and remedial interventions in cases of actual and potential crisis.⁵⁹

Extraterritorial ESCR obligations

These infrastructure and agricultural-investment projects invoke the extraterritorial obligations (ETOs) of both the host state, in this case, the Republic of Sudan, as well as the ETOs of states hosting

development partners within their territorial jurisdiction. For example, the now-completed Merowe Dam is a project of the Sudanese government, principally funded the China Export Import Bank, the Arab Fund for Economic and Social Development, and the development funds of Saudi Arabia, Kuwait, Abu Dhabi, and the Sultanate of Oman. The project is being executed by extraterritorial companies, including Harbin (China), Alstom (France), Lahmeyer International (Germany) and ABB (Switzerland).⁶⁰

Reportedly, GoS is seeking funding for the Kajbar and Dal Dams from China Exim Bank, the Chinese government's export credit agency, which was the lead financier of the Merowe Dam. Lahmeyer International, a German engineering company, which also was involved in the Merowe Dam and has been debarred from receiving World Bank contracts because of a corruption scandal, has conducted an environmental impact assessment (EIA) for the Kajbar Dam.⁶¹

Development partner China voted in favor for the UN Declaration on the Rights of Indigenous People. The Chinese company Sinohydro, the principal Kajbar Dam contractor over five years, and its domicile state should respect and implement the principles of the Declaration by recognizing historic land rights and ensuring effective consultation with, and the free, prior and informed consent (FPIC) of the affected indigenous people.⁶² The ETOs apply to the People's Republic of China to respect, protect and—depending on the level of “decisive influence”—fulfill its extraterritorial ESCR obligations.⁶³ Both states parties, Sudan and China, bear the obligation to ensure that Chinese companies operating in Sudan comply with all relevant international standards affecting ESC rights.⁶⁴

This same example reveals the great extent to which bilateral arrangements are relevant to treaty monitoring, especially between and among states parties to the Covenant. These ETOs also pertain to Sudan's dam and agricultural investment partners, including other states parties to ICESCR: Switzerland, Germany, France and Kuwait. To date, Oman, Saudi Arabia and UAE remain outside the Covenant.

Issue 17: Please provide information, including statistical data, on the impact of the National Housing and Reconstruction Project, mentioned in paragraph 149 of the State party report, on the reduction of homelessness,⁶⁵ including among internally displaced persons, and on access to adequate and affordable housing for the most-disadvantaged and marginalized individuals and groups in the State party.

National Fund for Housing and Reconstruction Plan

The Fund of Housing and Construction, had completed and delivered about 23,830 housing units in the period from 2002 to mid-2009, installing water and electricity and schools, in addition to other services. The Fund reportedly established some 40 integrated water stations and a water network 550 km in length, mostly in Khartoum State.⁶⁶

The National Fund for Housing and Reconstruction (NFHR) announced a National Project for Housing 2011–2016. According to the statement of the NFHR's executive director, Sudan's housing deficit is almost 1.5 million units, which increases 50,000 units every three years. In 25 years, NFHR should complete another million units, but at a very high financial cost.⁶⁷

In its October 2012 regular meeting, NFHR⁶⁸ proposed a sectoral plan for its fifth year (2013). It called for expanding public housing projects over all of Sudan's 18 states (*wilayāt*), besides building 40 residential cities with priority to the states having people affected and displaced by natural disaster, or conflicts and wars.⁶⁹

To finance public housing, the NFHR plan has depended on profits supposedly to be generated by investment in luxury housing. For several reasons, most luxury-housing tenants defaulted on their loan repayments, which has impeded implementation of the popular-housing projects. Therefore, only 200 housing units a year were given to families by lottery since the plan's inception since 2008.⁷⁰

In February 2014, the Sudanese Council of Ministers explored a partnership between Darfur Regional Authority and NFHR for implementation of housing projects for returnees and displaced in Darfur.⁷¹ However, no implementation of a housing project in Darfur is reported so far.⁷²

Squatter Settlements and Forced Eviction⁷³ around Khartoum

Land tenure disputes, especially competing claims without documentation, represent 90% of land problems before the Khartoum courts.⁷⁴ This reflects an urgent need for housing and land policy reform after decades of continual flight from rural underdevelopment and turmoil to the capital since the 1990s.

Moreover, IDPs are suffering the lack of adequate housing, basic services and medical care, while the State of Khartoum and GoS are dealing with the IDPs camps through a narrow optic as security and social risks, threatening the demographic and ethnic balance in Khartoum. The authorities relate to them as an obstacle to implementing urban development projects.

Among the segregation-and-discrimination practices is the general denial of IDPs' access to land, whereas the GoS Ministry of Engineering has granted usufruct plots for housing only for IDPs from South Sudan who had registered before 1996. After the new foreign land-investment policy, the first waves of allotted IDP plots accrued commercial value. Authorities in the State of Khartoum, in turn, have implemented several forced evictions and demolished thousands of IDPs homes under so-called urban-development projects. Those gross violations then led to bloody confrontations in South Khartoum camps Mabo, Jabal Awliya' and Soba, and in Dar El-Salam Camp, west of Omdurman:

In December 2004, authorities destroyed houses and other buildings in Shikan settlement, relocating approximately 12,000 people to an unserviced area some 50 kilometres north of Khartoum, known as al-Fātih III. On 16 and 17 August 2005, authorities again forcibly evicted 700 families from Shikan relocating them in notoriously uninhabitable al-Fātih III.⁷⁵

In May 2005, the Khartoum State Police forcibly evicted some 700 Soba families and demolished 3,000 homes, killing 30 persons resisting the eviction in southeast Khartoum to a new and uninhabitable al-Fātih resettlement site 50 kilometers away.⁷⁶ The evicted persons were some 20,000 IDPs from Darfur and Nuba Mountains.

In August 2006, the authorities forcibly evicted 3,200 families (around 12,000 persons) at 20-year-old Dar Essalam Camp, housing mainly IDPs from Darfur. This gross violation contravened a Memorandum of Understanding between the affected persons and the al-Kamlin Locality toward a resettlement plan, pending an agreement on an adequate alternative site. However, at around 04:00 on 16 August 2006,

armed police and special forces with tanks and machine-gun-mounted vehicles used tear gas against the residents, randomly demolishing houses with bulldozers and killing four people (three children), injuring many others and detained 13 members of the Dar Essalam Popular Committee for six days. Police handcuffed and beat some residents with plastic hoses and confiscated the residents' belongings. On 17 August, while the entire area was in rubble, security personnel prevented international observers from speaking to the residents. GoS authorities brought in heavy trucks to transport the affected persons and their belongings to a polluted industrial zone five kilometers southwest of Dar Essalam, which the residents previously rejected as a resettlement site.

In 2013, the security forces raided and demolished 1,000 homes without prior notice and displaced more than 5,000 IDPs from Nuba Mountains and Blue Nile in Fashoda, west Omdurman. The demolition also resulted in the killing of a woman and her baby.⁷⁷

Issue 18: Please provide information on the impact of measures taken to upgrade urban slums and on the current situation of individuals and households removed from informal settlements and resettled in new towns, as mentioned in paragraph 154 of the State party report.

From Displacement to Slum

Clashes between government forces and armed rebel groups continue across Darfur. Last year alone, the conflict killed over 2,000. Since the Darfur armed conflict began in 2003, it has displaced close to 2.5 million people. More than 100,000 live in the Zamzam Camp, on the outskirts of North Darfur's capital, al-Fashir.⁷⁸ While 90,000 displaced persons live in Kalma Camp, in South Darfur, an additional 368,290 Darfur refugees reside in Chad. Some 1.4 million are children under 18, and 500,000 children under 5 are suffering the basic needs of food and water.⁷⁹

More than 450,000 people fled their Darfur homes in 2014. The conflict added another 100,000 IDPs this year.⁸⁰ Most of the newly displaced have moved into IDP camps already hosting over 2 million people, adding to the demand for under-resourced basic services in the urban concentrations where IDPs typically seek refuge.⁸¹

In urban areas in the border regions, military personnel have taken advantage of their positions to occupy residences or construct buildings on land that owners vacated when fleeing the violence. Those military personnel, including under immunity laws,⁸² have been unwilling to restore the land upon the owner's return, or have claimed ownership rights and sold the plots to others, complicating restitution of the property and inflating land and property prices. In Darfur, various groups have taken advantage of the years of conflict and the unsettled nature of land rights. In western and southwestern areas, nomadic Arab groups such as the Mahariya and Missiriya have appropriated lands that non-Arab sedentary groups, such as the Masalit and Fur peoples, occupied for centuries before the Darfur conflict.⁸³

The Dal, Kajbar and Merowe hydro-dam-affected families sometimes are compensated by resettlement into so-called “ideal villages.” However, these villages have been anything but ideal for their distance from traditional lands, water sources, roads and means of sustenance: pastures and agricultural lands.⁸⁴

-
- protect from, and redress forced evictions
 - combat homelessness

Habitat II commitments, 1996 (See endnote 69.)

Hundreds of Sudanese protested in the City of al-Damir on 20 November 2011, demanding the government do more to help villagers whose homes were flooded by the Merowe hydroelectric dam. Some 12,000 dam-affected people still remain homeless, about 9,000 of them living in the open.⁸⁵

Throughout the review period, GoS has not sufficiently prioritized the human right to adequate housing. It has not adopted defined policies, sufficiently developed national or regional physical plans, or programs to implement its obligation to respect, protect and fulfill the human right to adequate housing of its people [GC4, para. 12].

Most public housing projects implemented in Sudan have concentrated in the capital, Khartoum, and neglected and/or effectively have obstructed rural development by force in the other regions across Sudan. Indicative is GoS not having allocated adequate resources for housing or urban planning.⁸⁶

Government’s practice of selling land and property in the context of its privatization strategy has pursued international companies and foreign investors in housing for Khartoum. Many land brokers and speculators since have entered and controlled the property market, leading to a skyrocketing increase in the rent of housing. This relates to the points about inflation and policy drivers above.

One symptom is the housing costs in Sudan having inflated even more sharply after the independence of South Sudan, by 80% to 120%. Khartoum, a typical sanctuary for persons uprooted by conflict or dispossession, has become increasingly difficult for displaced persons and marginalized groups to pursue a livelihood.⁸⁷

UN agencies operate in Sudan, but mostly address symptoms. The human rights component of the integrated approach is not sufficiently present among the UN agencies.⁸⁸ However, the greater Covenant-based duty resides with the state party.

Issue 19: Please provide information on the impact of measures taken to supply water to the population in all states. Please provide information on measures taken to improve sanitation in urban and rural areas.

In pursuit of economic growth, GoS initiated structural adjustment policies already in 1990, without any direct IMF or World Bank intervention.⁸⁹ Privatization was a feature of the present government's Economic Salvation Program (1990–1993), ostensibly intended to increase efficiency and release the financial burden of the government, which suffered from severe budget shortages.

Since 2001, the Khartoum State Water Corporation (KSWC) began outsourcing the governmental functions of the water-supply system, including water fee collection, infrastructure construction and water treatment plant operation. The privatization was formalized in the 2007 Country Strategy on Integrated Water Resources Management and the 2010 Water and Sanitation Policy, which determined that the “private sector shall be encouraged and facilitated for active involvement in the provision of water supply and sanitation services.”⁹⁰

The privatization of water accompanied political, economic and/or clientele relationships between and among some members of the responsible governmental staff and the newly established private companies that, in most cases, were closely affiliated to the government.

Instead of enhancing the efficiency of governmental water supply in Khartoum, the unregulated privatization has led to an increase in corrupt practices and mismanagement of the water supply. In the Sudan case, instead of privatization accompanying a retreat of the state from service delivery, or the advance of the market, privatization of Khartoum water management actually was “governmentalized.” Some analysts have labelled this the “governmental-private-continuum.”⁹¹ In the case of Khartoum's human right to water, the relationships between the “public” and the “private” have been blurred and continuously reshuffled amid political, economic and clientele dynamics.

Service delivery in the developing world often produces obvious inequalities in access to water.⁹² The political ecology of water in Sudan is no exception. However, the case of Sudan, with its lack of institutional checks against corruption, has enabled a set of well-connected people illegally to acquire natural resources and property rights. Accumulating such resources and economic power has increased so that this leadership is able to block subsequent competition and redistributive reforms.

This Khartoum model of governmental-private-continuum in the appropriation of water evokes the importance of paragraphs 41–44 of General Comment No. 15 on the right to water, and particularly the state party's obligation to regulate “third parties” consistent with the objectives of the Covenant [para. 44b].

Issue 20: Please inform the Committee about the impact of steps taken by the State party to combat food insecurity and to ensure affordability and accessibility of food, including for internally displaced persons.

Food security is defined in Sudan as “the availability of enough food to secure the minimum nutritional requirements of every individual.” National food security is considered to be “the guarantee of a particular extent of food at the national level to meet the minimum nutritional requirements of the individual for a specific period, or to meet emergency food shortages during a certain period, estimated at three years.”⁹³ We should imply a nutrition criterion in that definition to meet the human rights minimum.

As an indicator of Sudan’s performance in implementing the human right to adequate food is the outcome monitored under *Millennium Development Goals, Target 1.C: “Halve, between 1990 and 2015, the proportion of people who suffer from hunger.”* Progress reports indicate that Sudan remains far “off track for meeting the MDG1 target.” Various surveys show Sudan at 32%, 33%, 43% and 35% toward achieving this MDG.⁹⁴ In 2013, Sudan was classified among the ten worst performing countries in combatting hunger.⁹⁵

As noted above, the incidence of poverty in Sudan has remained at 46.5%. This means that almost one out of every two people in Sudan lacks the means to purchase the value of a minimum food and non-food bundle. However, the food poverty index is higher in rural areas (55%) than urban areas (28%). Poverty levels also differ significantly from state to state: ranging from a quarter of the population in Khartoum to more than two-thirds of the population in Northern Darfur. The poverty gap ratio is reported at 16.2%, and the poverty severity index stands at 7.8%. That indicates the depth and severity of poverty, especially in North Sudan, where about 44.8% of the population consume below the food poverty line of 69 Sudanese pounds (US\$ 11.21) per month.⁹⁷

Nutrition in Sudan is poor, characterized by high levels of underweight and chronic malnutrition, as well as persistently elevated levels of acute malnutrition. Nationally, nearly one third (32.2%) of children under the age of five years is moderately or severely underweight.

In Sudan, 6.6 million people need humanitarian aid; 1.2 million children under the age of five suffer from acute malnutrition, including 550 thousand children suffering from severe acute malnutrition. In North Darfur, 28% of children suffered acute malnutrition in 2013, almost twice the UN’s 15% “emergency” level. The World Health Organization cut-off point for “high prevalence” of chronic malnutrition is 30%, and for “very high” prevalence equal to or greater than 40%.

Table 3: Chronic Malnutrition among Children in Darfur

Central Darfur	45 %
East Darfur	40 %
North Darfur	35 %
West Darfur	35 %
South Darfur	26 %

Source: S3m Survey 2013.⁹⁶

The World Health Organization has set the emergency threshold for acute malnutrition at any rate equal to, or greater than 15%. However, this threshold figure drops to a 10% threshold in areas of

armed conflict such as Darfur, Nuba Mountains or Blue Nile.⁹⁸ An expectations survey conducted in 2014 revealed malnutrition rates for Sudan up to 16%.⁹⁹

The situation of food and nutrition persistently has reached high levels of chronic malnutrition, with 44.8% of the population below the food poverty line, and with food poverty higher in rural areas (55%, as compared with 28% in urban areas).¹⁰⁰

In 2014, the ongoing violence in Darfur, South Kordofan and Blue Nile, as well as the influx of refugees from South Sudan, have contributed to a significant deterioration of the humanitarian situation. In South Kordofan and Blue Nile, hundreds of thousands of people in opposition-held areas have been cut off from humanitarian assistance as a result of GoS operations against the SPLM-N.

Table 4: Total Number and Degrees of Malnourished Children

Total malnourished annually	2,010,939
Moderate	1,455,735
Severe	555, 203
Global total	2,010,939

Source: S3m Survey 2013.

Conflict has exacerbated malnutrition and food insecurity, but some of the highest malnutrition rates to appear in Sudan's relatively peaceful east. More than 5 million people were food insecure during the 2014 pre-harvest lean season, including in those areas.¹⁰²

Chronic malnutrition among children is widespread and pervasive, as suggested in the accompanying Table 4. However, these 2013 data do not reflect the parallel malnutrition that has developed since the 2011 violence began in South Kordofan and Blue Nile.

The number of children in Sudan who did not have enough to eat in 2013 was 2,010,939.¹⁰³ Although the humanitarian crisis in Sudan may no longer be in the spotlight, about 3.5 million children are still face critical humanitarian needs due to a same combination of factors evident at the time of the Committee's 2000 review: natural-resource dispossession and armed conflict, but also robbing the poor, social control by way of indebtedness and low investment in basic social services.¹⁰⁴

The number of children with **severe acute malnutrition** (SAM) depends on the region. Highly populated states with a lower prevalence still carry a very high burden of children with SAM. Most of the children with SAM are found in North Darfur, South Darfur, Gezira, Kassala, Khartoum and Red Sea states. These five states carry 51% of the total SAM burden in Sudan. Two of these states, Khartoum and Gezira, have no Community Management of Acute Malnutrition (CMAM) program.

In January 2015, UNICEF reported that malnutrition of children in Sudan had reached alarming rates, especially coinciding with high national infant mortality rates (83:1,000 births). Sudan is the fourth worst country in the world in severe wasting among children (5%). Meanwhile a 2% indicator of acute malnutrition is considered SAM in developing countries, where, even in hospitals, 20–30% of children who suffer from wasting die.¹⁰⁵ The number of wasted children in 2011 (moderate and severe) was 817,000.¹⁰⁶

Table 5: Acute Malnutrition Rates for Children in Sudan¹⁰¹

Blue Nile	19 %
East Darfur	15 %
Kassala	15 %
North Darfur	28 %
Red Sea State	20 %
South Darfur	18 %
South Darfur	13 %
South Kordofan	10 %

Source: S3m Survey 2013.

The United Nations Food and Agriculture Organisation (FAO) also has lowered its current forecast for grain production in Sudan in the current season by as much as 70%, and FAO warned of a further deterioration in Sudan's food security in the event of failure to provide urgent support to farmers and herdsmen in the country. Currently, about 3.3 million people suffer from food insecurity, which number is likely to rise to 4 million within 2015. In some regions of Sudan, food security is expected to deteriorate to emergency levels, leading to deepening levels of malnutrition for more than 4 million people suffering from food shortages in various parts of the country.¹⁰⁷

In January 2013, the Sudanese Agriculture Minister Abdel Halim Ismail admitted that GoS faced a challenge to repair wrongheaded economic policies that have weakened productivity and indigenous agriculture. He acknowledged that the country is living a real crisis due to a lack of knowledge-based planning.¹⁰⁸

A combination of factors, added to drought in Darfur and elsewhere, makes Sudan particularly food insecure in the review period. The production of cereals such as rice, wheat and maize is expected further to decline up to 50% over the next 35 years in some locations due to the impacts of climate change. This scenario is particularly significant for Sudan, where high levels of poverty, displacement, political violence and conflict already prevail.¹⁰⁹

Agricultural Finance Policies and Food Affordability and Accessibility

Since 1991–92, the Agricultural Bank has been predetermining the price of crops as a basis for financing farmers. When the price rises beyond the minimum predetermined price, the bank does not pass on the returns to the farmer, but maximizes profit for itself. Meanwhile, when crop prices fall below the Bank's predetermined rate, the Bank does not prorate the farmers' repayment terms to relieve their debt burden commensurate with the market. Consequently, large numbers of insolvent farmers face imprisonment for failure to fulfill a civil contract with the Agricultural Bank for reasons beyond their control and under conditions that set them up never to gain.

This practice is contrary to the Agricultural Bank's ostensible mission to support agricultural development. Meanwhile, Islamic ESCR principles prohibit transactions based on *mahāqala* and *mazābana* [المحاولة والمزابنة] (speculating in commodity pricing before the harvest). They are rarely just. However, such practice of the Agricultural Bank institutionally skews the market to the perpetual disadvantage of the farmer.

An example of the unfair practices of the state's Agricultural Bank price fixing is the more than 1,000 farmers languishing inside jail cells as a result of this method of Agricultural Bank intervention in the market. Another related example finds the Agricultural Bank prefinancing farmers to cultivate white sesame at a fixed rate of 10,000 Sudanese pounds (US \$ 1,539) per ton, while the actual world price for the same crop ranges between US \$2,850 and \$2,900 per ton.¹¹⁰ Such state-driven underpricing of farmers' produce is inconsistent with the continuous rise in the average price of all grains over the past five years.¹¹¹ It is inconsistent also with the principles of implementing the human right to food [GC12, para. 26] and with the obligation to ensure an adequate standard of living and the continuous improvement of living conditions [Article 11].

Article 15 – Cultural rights

Issue 25: Please provide information on the effectiveness of the measures aimed at ensuring equal enjoyment of cultural rights by all ethnic groups, while preserving their own cultural identities and promoting intercultural understanding. Additionally, please provide information about the status and the protection of languages other than the official languages (Arabic and English) in the State party.

The 10-year-old Interim National Constitution's Article 1 asserts that the state is "a democratic, decentralized, multi-cultural, multilingual, multi-racial, multi-ethnic, and multi-religious country where such diversities co-exist." Article 3 states that "The Sudan is an all embracing homeland where religions and cultures are sources of strength, harmony and inspiration." Article 4(c) conveys the same theory: "the cultural and social diversity of the Sudanese people is the foundation of national cohesion and shall not be used for causing division..." Article 13 commits the institutions of the state to recognize, encourage and protect diverse cultures.

The Constitution's section on "Ethnic and Cultural Communities" (Article 47) extends rights to enjoy, practice and develop cultures, including languages. However, this provision is very abstract and does not suggest the material dimensions and requisites to fulfill that constitutional promise, including the preservation of people's cultural and productive links with traditional and ancestral lands.

The Constitution contains no provision expressly referring to intellectual property rights. However, Article 43 recognizes and guarantees the "Right to Own Property," which could be interpreted as extending to intellectual property rights.

In Sudan, nothing evokes deeper passions—or gives rise to more bloodshed—than disagreements about territory, boundaries, or access to land and related resources. From the GoS perspective, land in its entirety is a physical basis of political sovereignty, revenue generation, national economic wealth and power. However, most rural communities see land as a symbol for their collective socio-cultural and political identities, as well as a basis for their physical and economic survival. This relation among land, identity and livelihood implies that access to land is a fundamental to the enjoyment human rights, including the human right to participate in culture. This becomes clear where its denial does not only deprive the affected persons and communities from their economic and socio-cultural well-being, but simultaneously endangers their very subsistence [Article 1.2].

Since 2004, the CPA has required Sudan's development of laws to incorporate customary laws and practices, local heritage and international trends and practices. However, GoS continues to issue new long-term leases and freehold tenure over community lands to commercial interests and well-connected individuals without consulting local populations or obtaining their consent. Many are held by international investors from the Persian Gulf states, South Korea and Egypt. Customary land tenure systems are gradually breaking down, while dispossessing their traditional owners.¹¹²

The self-identified indigenous Nuba Mountains peoples in Sudan's South Kordofan State claim their communal land rights as a cultural attribute of peoples excluded from development opportunities by the postcolonial Sudanese state, which intervenes on and seizes their territory under the pretext of

“national development.” The Nuba Mountains case epitomizes the state’s practices of dispossession and alienation of indigenous peoples from their lands and natural resources, in particular, and the general development policies of exclusionary consolidation of land and productive assets in the hands of the political elite. The Nuba Mountains case also embodies the interplay between physical and cultural survival.

The indigenous Nubians (Northern State), have identified with their distinct territory and culture for millennia and bear the right to FPIC.¹¹³ Many of the Nubians of northern Sudan are convinced that the current hydroelectric projects are part of an ongoing scheme to erase their culture. A prominent Nubian environmental scientist has noted that “By flooding the last of the remaining Nubian lands...the Nubians are reduced to a group of people with no sense of memory, no past and no future to look for.”¹¹⁴

In the case of Dal Dam, five major archaeological sites will be flooded, in addition to the 5–10 thousand people to be displaced. The Merowe Dam, completed in 2008, already has flooded an ancient Kushite region that locals claim to have contained a minimum of 2,500 archaeological sites that were never fully excavated.¹¹⁵

Conclusion

The state party’s development-induced local disputes over land, local peoples’ means of subsistence, tend to escalate into full-scale war. These cases have demonstrated how land can form an intrinsic cause and complicating factor of conflict and conflict transformation, reducing the prospects of managing and, ultimately, resolving conflict or achieving development in a way that encourages broader nation-state affiliation. The escalation and recurrence of land-based conflicts in the afflicted regions of Sudan are increasingly merging from local to national to international level in the present “post-conflict” era, following the 2004 Comprehensive Peace Agreement (CPA) and the 2011 independence of South Sudan.¹¹⁶ They form living proof of the centrality of the land factor in contemporary Sudan’s protracted crises, recurring conflicts and consequent civil wars, including the long-running one in Darfur. Dispossession, deprivation and globalized development of land in Sudan also form a principal impediment to implementation of the Covenant.

Since CESCR’s last review of Sudan’s Covenant implementation in 2000, the methods by which GoS has pursued “national interest”—whether through projects such as the Merowe Dam, agricultural production and development, more generally—consistently have deprived citizens and local communities of their links to their traditional and ancestral lands and other productive resources. The state-party’s ESCR performance promises to deprive the affected majority of people in Sudan of their means to realize human rights to livelihood, adequate food, water, land and culture [Articles 11 and 15]. These practices have squandered invaluable archaeological sites and intangible heritage, while alienating communities from their traditional territorial base and their affiliation as citizens within the state.¹¹⁷ The review of the Republic of Sudan forms a textbook case of the systematic violation of the bundle of ESCRs and a colossal failure to implement corresponding state obligations under the Covenant, culminating in its own dismemberment within the review period.

Recommendations:

In light of the patterns of GoS policies and practices affecting land and land tenure, the authors of this report propose the following recommendations to the state party for the Committee's consideration:

- Immediately halt the practices of demolishing and forcibly evicting IDP camps and squatter settlements.
- Cease the practice of forced relocation.
- Adopt a policy of urban renewal incorporating the human right to adequate housing, including the application of General Comments No. 4 and No. 7.
- Apply the principle of free, prior and informed consent to communities affected by dam and infrastructure construction, prioritizing their resettlement and rehabilitation along the banks of the new reservoirs, access to natural resources and the benefits of infrastructure development.
- Apply General Comment No. 15 on the right to water, and particularly paragraphs 41–44 concerning the state party's obligation to regulate "third parties" consistent with the objectives of the Covenant.
- Prioritize housing in public policy within relevant state institutions by developing, adopting and implementing defined policies, national and regional planning, and programs in a participatory manner to implement the state party's obligation to respect, protect and fulfill the human right to adequate housing of all.
- Enact rent regulations that strike a balance among the landlord's interest, affordability and security of tenure.
- Regulate the activities of land brokers and speculators to ensure equitable management of land and property markets, avoiding exorbitant increases in cost of adequate housing.
- Pursue a balanced approach to rural and urban development, allocating sufficient resources to prioritize infrastructure and basic services to underserved regions of the country.
- Require military personnel and other agents of state and government institutions who have acquired land and real estate without the consent of their former owners to ensure their restitution, return, rehabilitation, compensation, guarantees of nonrepetition and satisfaction.
- Cooperate with local, regional and international partners to devise and implement interventions that combine the principles and objectives of humanitarian assistance, sustainable development and human rights in a common and complementary approach consistent with global best practice.
- Consider integrating the CFS *Voluntary Guidelines on Responsible Governance of Tenure of Land, Forests and Fisheries* into policy guidance for relevant institutions in all spheres of government.
- Consider developing policy, plans and mechanisms for respecting and protecting indigenous and traditional land and natural resource tenure for diverse communities.
- Ensure protection and equitable treatment of small farmers in land administration, finance and management of agricultural inputs.
- Operationalize the proposed land commissions in each region to redress illicit practices, disputes and conflict that have dispossessed communities of their lands and other means of subsistence.
- Reforms legislation and practices in accordance with international human rights instruments, in accordance with Article 27 of the Interim National Constitution.

- Establish, through broad and effective stakeholder consultation, equitable, clear and widely published criteria for “national interest” and “public purpose” projects and acts, including fair compensation and, where appropriate, reparations, for those natural and legal persons affected by losses, costs and damages arising from land and property acquisitions.
- Take immediate and effective measures to prevent, criminalize and redress forced eviction as a gross violation of human rights, in particular the human right to adequate housing, and apply the corresponding criteria for reparation of victims.
- Reform police, security and other law-enforcement bodies and functions consistent with human rights criteria, in particular, economic, social and cultural rights.
- Revoke immunity laws for state agents, regardless of their official status or function.
- Exercise extraterritorial obligations under the Covenant to respect, protect and, where possible, fulfill human rights in transactions with external parties in domestic or cross-border trade and investments.
- Exercise extraterritorial obligations under the Covenant to respect, protect and, where possible, fulfill human rights in negotiation with and participation in multilateral institutions and forums concerned with investment, trade and/or development.

Annex: Domestic Land Grabbing as a Form of Official Corruption

78 high-value plots of land that President `Umar al-Bashir and his family have expropriated¹¹⁸

City	Neighborhood	Site	Plot	Area ¹¹⁹	Owner
Port Sudan	al-Mughtaribin	1	130	600	Ahmad Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	904	550	al-Bashir' Abdallah Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	1023	600	al-Nur Islamic Complex/the Director 'Ali Hasan Ahmad al-Bashir
Port Sudan	Airport	8	342	300	Muhammad Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	8	134	750	Maḥmūd Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	545	750	Ḥajar Muhammad Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	11	339	540	Ḥādiya 'Abdallah Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	11	87	1,520	Endowment for al-Nur Islamic Complex: director, 'Ali Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	545	750	Yūsuf Maḥmūd Hasan Ahmad al-Bashir
Khartoum	al-Tan'im	00	1332	665	Ahmad Hasan Ahmad al-Bashir
Khartoum	al-Dipūmāsi	1	121	483	al-'Abass Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	545	750	Sarah Muhammad Hasan Ahmad al-Bashir
Khartoum	al-Dipūmāsi	1	536	446	'Abdallah Hasan Ahmad al-Bashir
Khartoum	al-Jarīf West	24	300	710	'Umar Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	12	214	600	Muhammad 'Uthmān Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	545	750	Ḥind Muhammad Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	11	102	1,520	al-'Abas Hasan Ahmad al-Bashir
Khartoum	Barrī al-Lamāb	9	1/182	449	al-'Abas Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	849	473	Āmna Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	4	781	500	'Umaima Ahmad al-Bashir Hasan Ahmad al-Bashir
Khartoum	al-Thālitha	24	47	400	Hasan Ahmad al-Bashir
Khartoum North Bahri	East Kūbar	5 Ṭā' (ط)	3	318	Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	11	339	540	Hasan 'Abdallah Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	1091	4,469	Sudanese Government allocated finally for the Islamic Complex of Hasan Ahmad al-Bashir
Khartoum North Bahri	Kafury	9	7/808	200	Sudanese Government allocated finally under Article 1/42 (A) of the Urban Planning Law (1994), Law on Land Disposal

					of the Ministry of Social and Cultural Affairs as Endowment for Martyr ‘Uthmān Ḥasan Ahmad al-Bashīr
Khartoum North Baḥri	Kafūry	11	297	540	Zainab Ḥasan Ahmad al-Bashīr
Khartoum	Barri al-Lamab	9	159	460	‘Uthmān Ḥasan Ahmad al-Bashīr
Khartoum North Baḥri	Kafūry	11	2	945	‘Ali Ḥasan Ahmad al-Bashīr
Khartoum North Baḥri	Kafūry	11	52	1,800	‘Umar Ḥasan Ahmad al-Bashīr
Khartoum North Baḥri	Kafūry	12	12	1,200	Widād Bābakir ‘Umar Madwī
Khartoum North Baḥri	Kafūry	5	787	414	Widād Bābakir ‘Umar Madwī
Khartoum North Baḥri	Kafūry	8	729	600	‘Ulawīya Bābakir ‘Umar Madwī
Khartoum North Baḥri	al-Saḥwa	-	110	370	Makkī Bābakir ‘Umar Madwī

Land Expropriated by Nūr al-Dā'im Ibrahīm, husband of 'Umar al-Bashīr's sister					
City	Neighborhood	Site	Plot	Area†	Owner
Khartoum North Baḥri	Kafūry	11	119	1,600	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	al-Wādi	38	576	300	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	al-Wādi	63	311	400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	1	633	960	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum	West Khartoum	Street 45	43	456	'Amāl Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	al-Khuglab	36	979	500	'Ali Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	55	1,440	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	9	510	550	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	Market 11	13	375	Nūr al-Dā'im Ibrahīm Muhammad
Umdurmān	Abū Sa'd	al-Buqa'a/29	148	400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	4	1,600	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	296	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	351	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	350	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	352	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	354	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	353	540	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Shambāt	North Shambāt	51	365	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	7	89	400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	7	91	400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum	Imtidād East	10/9/C	16/1	198	Nūr al-Dā'im Ibrahīm Muhammad as endowment for Islamic Radio <i>al-Kawthar</i>
Umdormān	Abū Sa'Ad	Business and Trade Center	282	418	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	93	1,225	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	97	1,400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	146	1,400	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	14	25	535	Nūr al-Dā'im Ibrahīm Muhammad
Umdurmān	Abū Sa'Ad	Nūr City/2	1170	641	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	14	23	1,080	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	Khadamāt/7	51	260	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	11	293	1,620	Endowment for Orphans/director Nūr al-Dā'im Ibrahīm Muhammad

Kassala	Bānit	1s	100	400	Endowment for Orphans/director Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	9	551	750	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	6	895	310	Nūr al-Dā'im Ibrahīm Muhammad
Umdurmān	Abū Sa'd	al-Buqa'a/40	1876	500	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	9	780	839	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	Market 9	1/808	225	Nūr al-Dā'im Ibrahīm Muhammad
Umdurmān	Abū Sa'd	Nūr City/2	1171	630	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	14	3	3,217	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Shambāt	North Shambāt	57	359.5	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Shambāt	North Shambāt	1/57	239.5	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	3	1532	363	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	Market 11	6	323	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	Market 9	4/808	300	Nūr al-Dā'im Ibrahīm Muhammad
Khartoum North Baḥri	Kafūry	9	418	1,800	Endowment for Orphans/Director Nūr al-Dā'im Ibrahīm Muhammad

Endnotes:

- ¹ In A/48/18(SUPP) paras. 100–127, 19 January 1994, CERD referred to GoS “ethnic cleansing campaigns in southern Sudan” and their impediments to “the process of national integration” (para. 103), as well as the razing of hundreds of Nuba and Fur villages, and “their inhabitants driven from the land in a vast programme of ethnic cleansing,” including “tens of thousands of people were being removed each month from Nuba mountains” (para. 107). See also CERD/C/304/Add.116 CERD/C/304/Add.116, 27 April 2001; CERD, Decision 2(66): Situation in Darfur, CERD/C/66/DAR/Dec.2, 11 March 2005.
- ² “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” A/RES/60/147, adopted without vote, 21 March 2006, at: <http://www2.ohchr.org/english/law/remedy.htm>.
- ³ “Sudan,” USAID Country Profile, Property Rights & Resource Governance, at: http://pdf.usaid.gov/pdf_docs/PA00J7T3.pdf.
- ⁴ Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard and James Keeley, *Land Grab or Development Opportunity: Agricultural Investment and International Land Deals in Africa* (London/Rome: iied, FAO and IFAD: 2009), at: <http://www.fao.org/3/a-ak241e.pdf>.
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- ⁶ Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2011), para. 9.
- ⁷ AzzaDirar, Asim El-Moghraby, Mohamed Jalal, Mark Zeitoun, “Displacement and resistance induced by Merowe Dam: the Influence of International norms and justice,” International Development School, University of East Anglia, January 2015, at: <https://www.uea.ac.uk/documents/6347571/6549421/DEV+Report+and+Policy+Paper+12/e202548c-8b7b-459d-9e77-0463ff6585b0>
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- ⁹ Leadership Office of Hamadab Affected People (LOHAP), “Hundreds forced to flee as Merowe Dam reservoir waters rise: No warnings given, Six more villages threatened,” *Sudan Tribune* (10 August 2006), at: <http://www.sudantribune.com/spip.php?article17017>.
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- ¹¹ The villages of Shikora, al-Bana, Umm Haza, al-Bata’in, Umm Kük, al-Khizian and Garf al-Doud, al-Aragüb, al- Ghananīm, Umm Daras, Umm Sarif, al-Galiha.
- ¹² Asim I. El Moghraby, “State of the environment,” UNEP EIA Training Resource Manual, Case Study 4, at: [http://www.unep.ch/etu/publications/11\)%2027%20to%2036.pdf](http://www.unep.ch/etu/publications/11)%2027%20to%2036.pdf).
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- ¹⁴ See “Report of the Special Rapporteur on the right to adequate housing, Summary of communications sent and replies received from Governments and other actors,” A/HRC/4/18/Add.1, at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/126/63/PDF/G0712663.pdf?OpenElement>.
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- ²⁵ These two tables are reproduced from ILO, *Independent evaluation of the ILO's Decent Work Country Programme Strategies and Activities in North Africa 2010–13*, which included the country Sudan case study by independent national consultant Samia Satti, 184–216, at: http://www.ilo.org/wcmsp5/groups/public/---ed_mas/---eval/documents/publication/wcms_316825.pdf.
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