

Land as a Human Right

Masterclass 4, 24 February 2021



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المؤتمر العربي الثاني للأراضي
Second Arab Land Conference
22-24 FEBRUARY 2021 • CAIRO, EGYPT



"Land is the foundation of life on earth and it's important for everything. How land is used and managed influences nature, food, water, energy and the climate."

- Vera Boerger, Senior Land and Water Officer, FAO

How did water become a human right?

كيف أصبحت الماء حقاً من حقوق الإنسان؟



Water and the Human Body

60%

of the average adult's weight
is made up of water



73%

of the heart is
composed of water



80%

of the brain is
composed of water

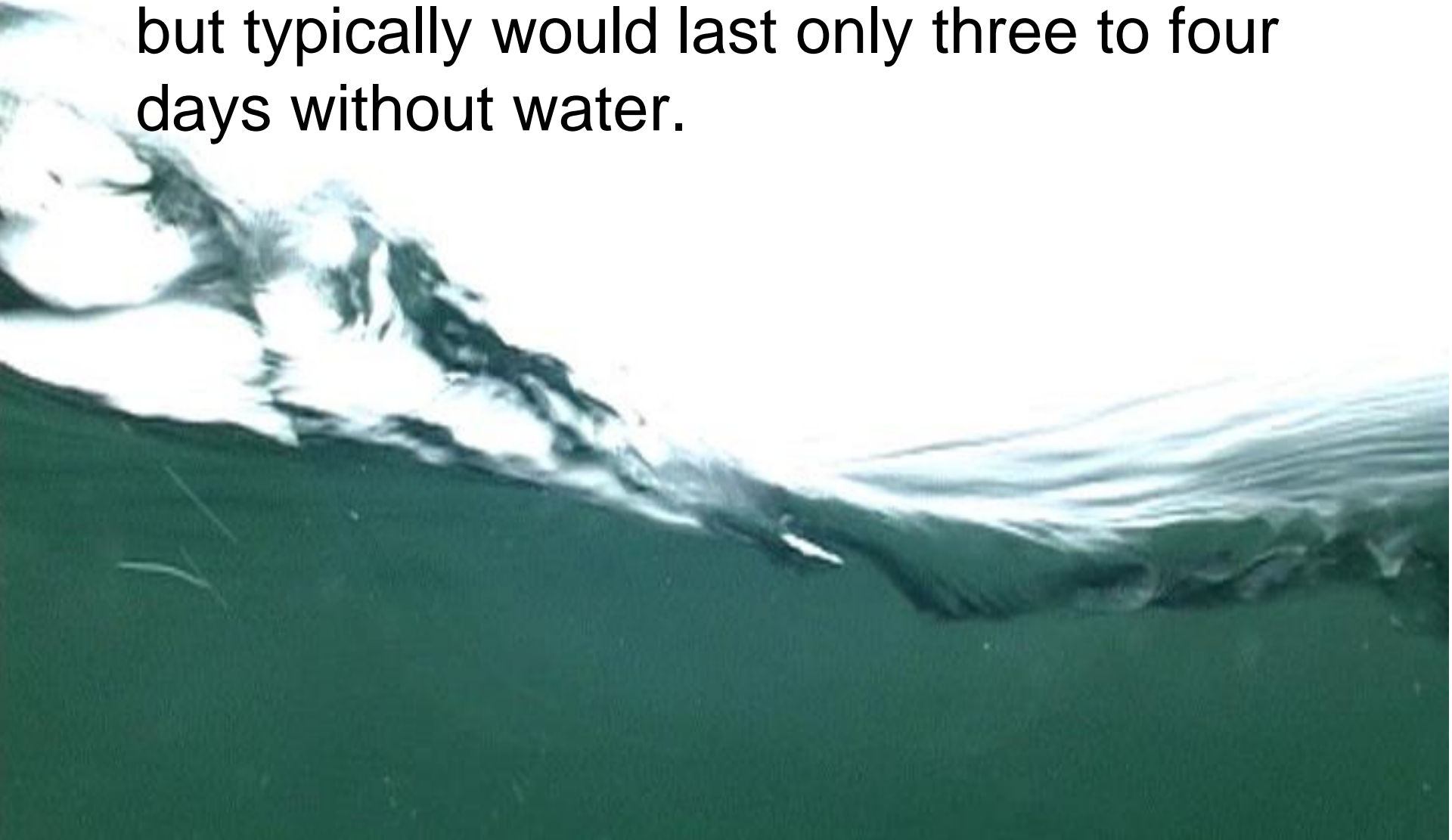


of the lungs are
composed of water



A human can go without food for about three weeks,

but typically would last only three to four days without water.



A Human Right to Water

Basis in international human rights law:

- **the human right to adequate housing**
- **the right to food (ICESCR, Art. 11)**
- **the human right to the highest attainable standard of...health (ICESCR, Art. 12)**
- **CESCR General Comment No. 15 (2002)**
- **A/RES/64/292. “The human right to water and sanitation” (2010)**



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2002/11
20 January 2003

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

Twenty-ninth session

Geneva, 11-29 November 2002

Agenda item 3

General Comment No. 15 (2002)

**The right to water (arts. 11 and 12 of the International Covenant
on Economic, Social and Cultural Rights)**

1. **Water** is a limited natural resource and a public good fundamental for life and health. The **human right to water** is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. The Committee has been confronted continually with the widespread denial of the **right to water** in developing as well as developed countries....The continuing contamination, depletion and unequal distribution of **water** is exacerbating existing poverty. States parties have to adopt effective measures to realize, without discrimination, **the right to water**, as set out in this General Comment.



General Assembly

Distr.: General
3 August 2010

Sixty-fourth session
Agenda item 48

Resolution adopted by the General Assembly

[without reference to a Main Committee (A/64/L.63/Rev.1 and Add.1)]

64/292. The human right to water and sanitation

1. *Recognizes* the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;

وماذا عن الارض؟ What about Land?



Minorities' Right to Land

HRC, General comment No. 23: Article 27 (Rights of minorities)

“With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them” (para. 7).

Protocol on the Rights of Women in Africa (2003)

to African Charter on Human and Peoples Rights

Article 15: Right to Food Security

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

(a) provide women with **access to** clean drinking water, sources of domestic fuel, **land**, and the means of producing nutritious food;...

Protocol on the Rights of Women in Africa (2003)

to African Charter on Human and Peoples Rights

Article 19: Right to Sustainable Development

...(c) promote women's **access to and control over productive resources such as land** and guarantee their right to property;...

<u>State</u>	<u>Signed</u>	<u>Ratified</u>	<u>Deposited</u>
<u>Algeria</u>	29/12/2003		
<u>Angola</u>	22/01/2007	30/09/2007	
<u>Benin</u>	11/02/2004	30/09/2005	13/10/2005
<u>Botswana</u>			
<u>Burkina Faso</u>	26/02/2004	09/06/2006	09/08/2006
<u>Burundi</u>	03/12/2003		
<u>Cameroon</u>	25/07/2006		
<u>Cape Verde</u>		21/06/2005	22/07/2005
<u>Central African Republic</u>			
<u>Chad</u>	06/12/2004		
<u>Comoros</u>	26/02/2004	18/03/2004	16/04/2004
<u>Congo</u>	27/02/2004		
<u>Cote d'Ivoire</u>	27/02/2004		
<u>Democratic Republic of the Congo</u>	05/12/2003	09/06/2008	
<u>Djibouti</u>	18/12/2003	02/02/2005	04/02/2005
<u>Egypt</u>			
<u>Equatorial Guinea</u>	30/01/2005		
<u>Eritrea</u>			
<u>Ethiopia</u>	01/06/2004		
<u>Gabon</u>	27/01/2005		
<u>Gambia</u>	11/09/2003	25/05/2005	06/09/2005
<u>Ghana</u>	31/10/2003	13/06/2007	
<u>Guinea</u>	16/12/2003		
<u>Guinea-Bissau</u>	08/03/2005	19/06/2008	
<u>Kenya</u>	17/12/2003		
<u>Lesotho</u>	27/02/2004	26/10/2004	05/11/2004
<u>Liberia</u>	16/12/2003	14/12/2007	

<u>State</u>	<u>Signed</u>	<u>Ratified</u>	<u>Deposited</u>
<u>Libya</u>	05/11/2003	23/05/2004	30/06/2004
<u>Madagascar</u>	28/02/2004		
<u>Malawi</u>		20/05/2005	29/06/2005
<u>Mali</u>	09/12/2003	13/01/2005	03/02/2005
<u>Mauritania</u>		21/09/2005	14/12/2005
<u>Mauritius</u>	29/01/2005		
<u>Mozambique</u>	15/12/2003	09/12/2005	30/12/2005
<u>Namibia</u>	09/12/2003	11/08/2004	26/08/2004
<u>Niger</u>	06/07/2004		
<u>Nigeria</u>	16/12/2003	16/12/2004	18/02/2005
<u>Rwanda</u>	19/12/2003	25/06/2004	01/07/2004
<u>Sahrawi Arab Democratic Republic</u>	20/06/2006		
<u>Sao Tome and Principe</u>			
<u>Senegal</u>	26/12/2003	27/12/2004	30/01/2005
<u>Seychelles</u>	24/01/2006	09/03/2006	25/04/2006
<u>Sierra Leone</u>	09/12/2003		
<u>Somalia</u>	23/02/2006		
<u>South Africa</u>	16/03/2004	17/12/2004	14/01/2005
<u>South Sudan</u>			
<u>Sudan</u>			
<u>Swaziland</u>	07/12/2004		
<u>Tanzania</u>	05/11/2003	03/03/2007	07/05/2007
<u>Togo</u>	30/12/2003	12/10/2005	26/10/2005
<u>Tunisia</u>			
<u>Uganda</u>	18/12/2003	22/07/2010	
<u>Zambia</u>	03/08/2005	02/05/2006	07/06/2006
<u>Zimbabwe</u>	18/11/2003	15/04/2008	

United Nations Declaration on the Rights of Indigenous Peoples,

A/RES/61/295, 15 September 2007

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional customs, traditions and land tenure systems of the indigenous peoples concerned.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, A/RES/73/165, 21 January 2019

Article 17

1. Peasants and other people living in rural areas have the right to land, individually and/or collectively...access to, sustainably use and manage land ...to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.

2. States shall take appropriate measures to remove and prohibit all forms of discrimination relating to the right to land....

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, A/RES/73/165, 21 January 2019

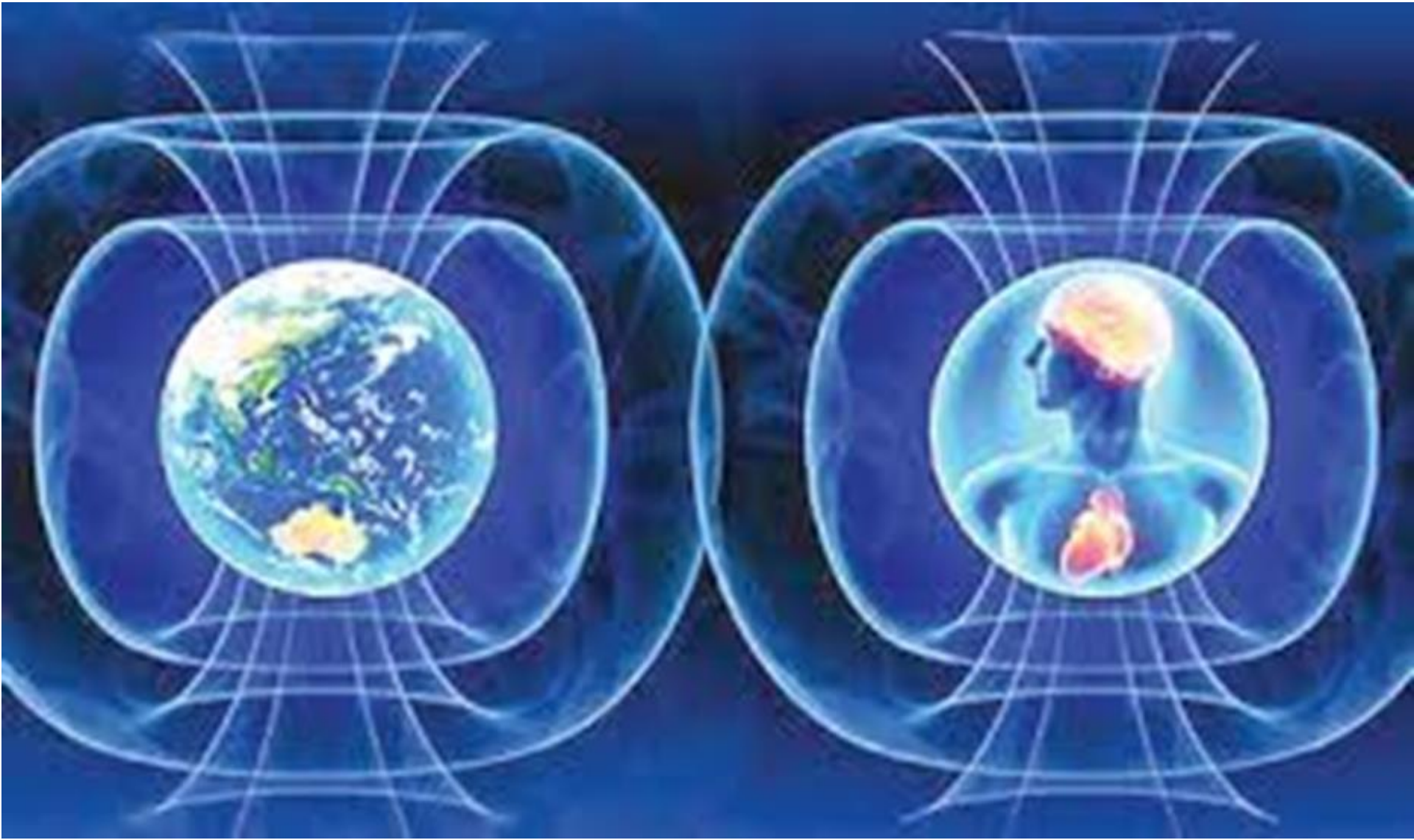
Article 17 (cont'd.)

3. States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems.... ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed.... recognize and protect the natural commons and their related systems of collective use and management.

Support of MENA States

- **International Labor Organization: Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (1989);**
- **United Nations Declaration on the Rights of Indigenous Peoples (2007);**
- **United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (2019)**

Land as a Human Need



"Land is the foundation of life on earth and it's important for everything. How land is used and managed influences nature, food, water, energy and the climate."

- Vera Boerger, Senior Land and Water Officer, FAO

Ubiquitous Land

- Law;
- Culture;
- Defense;
- Statecraft;
- Agriculture;
- Geophysics;
- Extractivism;
- Climate change;
- Electromagnetics;
- Poverty eradication;
- Human settlements;
- Environmental policy;
- Trade and investment;
- Project implementation;
- Urban planning/renewal;
- Housing and urbanization;
- Infrastructure development;
- Rural and territorial development;
- Public administration and governance;
- Biodiversity protection and preservation;
- Environmental protection/nature conservation;
- Conflict avoidance, resolution and peace-making;
- Food security, food sovereignty and food systems;
- Natural and resource allocation for public and private purposes;
- Non-self-governing territories; foreign occupation and nation's and peoples' self-determination



Land in Human-made Law

- State = land, people, institutions
- Constitutions: define land and people;
- Domestic legislation regulating land as tenure relationship of legal persons with real property;
- Property rights (individual and collective ownership) in UDHR;
- Human right to property omitted in the two Human Rights Covenants;
- CESCR General Comment No. 25: “develop the relationship more broadly between science and economic, social and cultural rights”

Land in the Law of Nature

- “Universality” test;
- Element upon which human life with dignity and well-being depend;
- Essential natural resource and public good of finite quantity fundamental for human beings as an earth-bound species.

Fundamental Forces

- Fundamental forces of nature: *gravity*, *electromagnetism* and nuclear forces (both weak and strong);
- Electromagnetism affects birth, growth, reproduction, death and recycling/regeneration;
- Bodily functions and gravity: force already an integral part of the landmass;
- Plants sense and adjust to 1 g force;
- Musculoskeletal and sensory-motor systems;
- Constantly gravitational flowing water for numerous basic human needs and uses.

- Earth's dominant electromagnetic frequency (7.83 Hz) = human brain frequency and alpha rhythms;
- Human contact with land as treatment and remedy to degenerative diseases, and a primary factor in regulating the endocrine and nervous systems;
- Contact remedies degenerative diseases (chronic stress, autonomic nervous system dysfunction, inflammation, pain, poor sleep, heart rate variability, hyper-coagulable blood and cardiovascular disease).

Land and the Human Body

Birth, growth, reproduction, death,
recycling / regeneration, and bodily
functions depend on the land's gravity



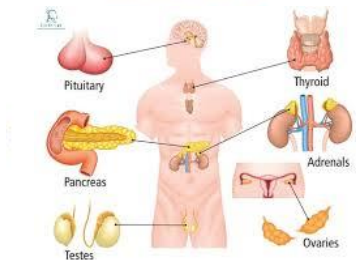
Contact with land remedies heart rate variability,
hypercoagulable blood and cardiovascular disease



Land's electromagnetic frequency (7.83 Hz)
= human brain frequency and alpha rhythms



Land is a primary factor in regulating the
endocrine and nervous systems



الأرض والثقافة / Land and Culture



الأرض والثقافة / Land and Culture

- ﴿الناس شركاء في ثلاثة: في الكلا، والماء، والنار، وثمره حرام﴾
- *Waldbaden* and *şinrin'yokù* (森林浴)
- Sioux: life-giving force of the land and soil as part of their nature / الشعب سيو: القوة الواهبة للحياة في الأرض والتراب كجزء من فطرته.

Human Right to Land ?

Basis in international law:

- Right to property (Art. 17, UDHR)
- Dignity and equity
- Human right to the highest attainable standard of physical and mental health (Art. 12, ICESCR)
- Human right to adequate housing (Art. 11, ICESCR)
- Human right to food (Art. 11, ICESCR)
- Human right to (decent) work, livelihood (Arts. 6–8, 11, ICESCR; ILO Conventions)
- Human right to culture (Arts. 15, ICESCR; 27, ICCPR)
- Human right to property (Art. 17, UDHR)



Housing and Land Rights Network

Habitat International Coalition

For more information:

www.hlrn.org

www.hic-mena.org

www.hic-net.org



