Date: 16 August 2021

8 Elul 5781

To: Professor Rodrigo Uprimny Yepes and Mr. Michael Windfuhr

Re: **The Government of Israel's Contribution to the Committee on Economic, Social and Cultural Rights' Draft of General Comment No. 26**

**General**

1. The State of Israel respectfully submits to the United Nations Committee on Economic, Social and Cultural rights its comments regarding the Draft General Comment No. 26 on the access to land dated May 3, 2021.
2. As part of its longstanding commitment to fulfill its obligations under the Covenant and to continue its fruitful cooperation with the Committee in an open and constructive dialogue, the State of Israel welcomes the opportunity to comment on the Draft General Comment on the access to land as an important precondition for the realization of the rights to adequate food, water and housing as part of the right to an adequate standard of living, as well as the right to health and the protection against non-discrimination contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR).
3. The State of Israel recognizes and respects the Committee's mandate, which enables it, *inter alia*, to publish General Comments. However, Israel would emphasize that General Comments are intended to provide useful guidance to State Parties in interpreting their obligations under the Covenant andto recommend effective measures and "best Practices". As such, General Comments do not create binding legal obligations, in and of themselves, nor do they reflect an interpretation of the Covenant that is necessarily agreed upon by States Parties.
4. The following remarks reflect Israel's principal observations and concerns arising from the draft General Comment and do not preclude the existence of other issues of concern arising from the Committee's interpretation of the obligations of States Parties under the Covenant.

**Secure Access to Land**

1. **Paragraph 9:** The State of Israel attaches great importance to the right to housing and the accessibility of housing. In this respect, in August 2021, the Minister of Finance and Minister of Building and Housing agreed to expand the budget for public housing and urban renewal. Under the new budget, *inter alia*, 1,700 new apartments for public housing will be purchased between 2021-2023 and half a billion NIS (approx. 155,009,920 USD) will be allocated towards framework agreements for urban renewal in 2021-2022.
2. **Paragraph 12**: The State of Israel's practice aims at maintaining the cultural and traditional relations of persons with previously established relations to their lands. The Israel Land Council's 2019 Guidelines regarding allocation of land prioritizes long-time residents. The guidelines allow for building plans to allocate 75% of the proposed residential buildings to the local community of long-time residents.
3. **Paragraph 13**: With respect to the competition for access to and control over land, note that the Government of Israel has established the National Planning and Building Committee for Priority Housing Areas (VATMAL) by law through a temporary provision in 2017. The Committee promotes and implements new building plans in priority areas through an especially efficient process, which, *inter alia*, greatly assists the Arab minority regarding land related aspects.

**Non-discrimination**

1. **Paragraph 15**: In respect to non-discrimination, note that the inter-ministerial team headed the Ministry of Justice, established in 2015 with the aim of examining barriers in the field of housing for the Arab population ("the 120 days team"). In July 2015, the team published its recommendations, which were later adopted in relevant Government Resolutions that, *inter alia*, refer to this issue. In the course of its work, the team became aware of a number of barriers regarding housing, both in the general population and in the Arab population. In order to address these barriers, in recent years an additional joint team headed by the Ministry of Justice and the Ministry of Finance was established to review these barriers and propose solutions.
2. In 2017, "*Amidar*", a national housing company, began to publish tenders announcements for the sale of housing in Arabic as well as in Hebrew. Additionally, the Ministry of Construction and Housing has established a special website in Arabic that includes all information presented in the Hebrew website and additional information specifically intended for the Arab population. Such information covers the governmental program for affordable housing ("Resident Pricing"), the procedure for participating and upgrading participation in the program, financial benefits, the technical specifications of the flats on offer, etc. The Ministry has widely published campaigns aimed at the Arab population through advertising "Resident Pricing" projects in the cities of Nazareth and Sakhnin. The Ministry continues to operate to promote linguistic accessibility for the Arab population.
3. In this respect, please note Government Resolution No. 3790 on the mitigation of the social and economic gaps and economic development of Eastern Neighborhoods of Jerusalem (ENoJ), adopted on May 13 2018. According to the Resolution, 50% of land in ENoJ should be registered by the end of 2021, and all land should be registered by the end of 2025. Additionally, the Resolution established an inter-ministerial team chaired by the Ministry of Justice Director General regarding land registration.
4. Regarding the Bedouin population in Israel, significant State's efforts are made to promote the development of a planning and regularization plan for Bedouin localities. In this respect, on February 12, 2017, the Government adopted Government Resolution No. 2397 on the economic and social development plan for the Bedouin community in the Negev. The Resolution sets out a five (5) year plan, focusing on educational, social and communal services, economy and the workforce, developing infrastructure and empowering local authorities. The Government has also fostered an inter-sectorial dialogue, involving civil society organizations, heads of local authorities and municipalities, and Government representatives. The said dialogue has also included visits to Bedouin villages throughout the Southern part of Israel, in order to improve the Government's understanding of the situation on the ground and receive input directly from the members of the community.

**Participation, Consultation and Transparency**

1. **Paragraph 18**: The Civil Law Division at the Ministry of Justice maintains a close connection with the public at large, and representatives of the Arab minority specifically, and conducts regular forums in which representatives of the public can be heard, in order to enable the public to be better involved in the decision-making process. Two (2) recent forums were held in the cities of Umm Al-Faham and Nazareth, to ensure discussions include representation of multiple demographics.

**Obligations to Respect and Protect**

1. **Paragraph 19**: Note that in 2016, the Government directed the Minister of Finance to establish an inter-ministerial committee to examine incentives for landlords to rent their properties for a period of at least five (5) years at a set, index linked, rental price. This resolution also directed the establishment of a Ministry of Justice Committee to recommend measures that may be taken to improve the efficiency of dispute resolution between landlords and tenants, including the establishment of a designated court to this end (Government Resolution No. 1528).
2. Following the work of the inter-ministerial committee, in July 2017, the Knesset approved Amendment No. 1 to the *Rental and Loan Law* 5777-2017, which includes a special chapter regarding rental for residential purposes. This chapter regulates, among other things, the relations between the tenant and the owner, and increases the protection and certainty in this market. The chapter sets instructions in regards to the contract (requirement of a written contract), the apartment (it defines apartments as "inhabitable" if they lack, for example, plumbing, electricity or natural light), and defines the landlord's responsibilities for repairs, including timeframes; the types of payments that the owner can collect from the tenant; the amount of collateral which the owner may demand; and instructions in regards to the end of the legal relations between both sides, etc.
3. **Paragraph 21**: In light of the differences among national legal systems, we suggest adding the words "and under certain circumstances" prior to the words "not only those on written records".
4. **Paragraph 25**: We propose to clarify that States are only obliged to guarantee protection from forced evictions from land of which the State itself has ownership, as it is the State of Israel's view that non-intervention in private property is a core element of property law.
5. **Paragraph 29**: In accordance with Israel's view expressed in our previous paragraph, we propose adding the words "to the best of their ability" prior to the words "that their access rights to land are not otherwise extinguished or infringed by third parties".
6. **Paragraph 32:** It should be noted that the duties placed on business entities and private investors in Israel in this aspect are much more limited, as is the case for other States parties.

**Compensation**

1. **Paragraph 56:** Note that Section 2 of the *Public Housing Law (Purchasing Rights)* 5759-1998 includes a provision which entitles a tenant to alternative housing in cases in which a public housing company is renovating the building in order to sell certain apartments. The housing alternative must be in the same area and for the period of time when the renovations are taking place.