

Women and the Human Rights to Adequate Housing

Birte Susanne Scholz. Women and Housing Rights Programme Coordinator, The Centre on Housing Rights and Evictions (COHRE)

Today, approximately 1.5 billion persons throughout the world live in inadequate housing.¹⁶ Women are disproportionately represented among the inadequately housed - female make up seventy percent of persons living in conditions of poverty.¹⁷ These women and girls live in slums, squatter settlements, shantytowns, on streets, in tents, abandoned rail cars, under bridges, or in similarly abhorrent conditions.

Each day, approximately 50,000 people, mostly women and children, die as a result of poor shelter, polluted water or inadequate sanitation. Close to 70 million women and children live in homes where smoke from cooking fires damages their health.¹⁸

Thousands of women are injured and/or die each day from violence perpetrated against them in the home- unable to find housing on their own, they become virtual prisoners of violence.¹⁹ Women and children comprise 80 percent of the world's refugees and internally displaced persons, a population that is vulnerable to disease, poverty and violence.²⁰

Close to 75 percent of the world's women cannot obtain formal bank loans because they lack permanent employment and title deeds to land or housing that they can offer as loan security, and sometimes because the laws of their countries classify them as minors, and so not eligible to make legal transactions.²¹ These obstacles prevent women from accessing and controlling housing in their own legal capacity, rendering them dependent on male relatives for shelter.

While certainly lack of access to stable and secure housing adversely affects all, women bear the brunt of the affects of housing poverty and insecurity throughout the world. Overburdened with multiple shifts of caring for children, managing households and generating income, women rely heavily on adequate and secure housing, a lack of which has a severe impact on their economic, social and personal well being.

In spite of this intimate relationship with the home, women continue to be denied the full range of decision making with respect to housing- excluded from policy development, household design and construction. Though charged with caring for children, women have no control over household resources and location. Though charged with income generation, women are prevented through discrimination to own, control or access housing adequate for their needs.

Fighting for Women's Housing Rights:

The concept of fighting for the realization of women's housing rights should not be confused with an attempt to maintain what is often seen as a "traditional" or "essential" relationship between women and the home. It is important to emphasize that advocating for women's housing rights is by no means advocating for women's exclusion from the "public sphere" of life, or reinforcing the sexist notion that a "woman's place is in the home." It does not serve to reinforce traditional gender roles.

Rather, advocating for women's housing rights is fundamental to fighting for women's full equality, both within public and private spheres, and is basic to every woman's realization of a life with dignity. When placed in the proper framework, one where the woman is allowed to claim the right to housing in her own capacity, the home becomes a site of her autonomy, security and freedom.²²

¹⁶ UN-HABITAT cited Statistics, presented in 1997 to the General Assembly. In 2003, close to one billion persons lived in slums in urban areas. When taking into account the growth of urban slums- in 2001, 1 billion persons lived in urban slums(UN HABITAT, 2003) - and the rural inadequately housed, it would seem that the number of 1.5 billion inadequately housed, set forth in 1997, is by now much larger.

¹⁷ UN HABITAT statistic, quoted by then Secretary General of Habitat II, Wally N'Dow. Speech for Habitat Conference, 1996. Press Release, <http://www.un.org/Conferences/habitat/unchs/press/women.htm>.

¹⁸ See FN 2.

¹⁹ In Japan 59% of all women have suffered from domestic violence and in the USA the figure is 39%. 60% of women in Tanzania, Ecuador, and Sri Lanka say they have been subjected to domestic violence and sexual assault by their partner. *Status of the Worlds Women*, UN 1995.

²⁰ Forced Migration Review, Did you Know? Fact Sheet, <http://www.fmreview.org/2didyouknow.pdf>

²¹ See FN 2

²² Farha, Leilani, "Is there A Woman in the House?", pg. 7 (© 1999) *A Resource Guide to Women's International Human Rights*, Transnational Publishers (1998).

Societal relationships created in the home account for the differences between women and men's experiences of housing, and these differences define the different needs of women and men with respect to their housing. As such, women's housing needs of women may be seen as "practical" versus "strategic."²³ In housing, practical needs include secure shelter, adequate and proximate water and sanitation, heat, and safety. Strategic needs are those that attempt to respond to women's subordination - for example, access to credit in order to obtain housing independent of a male or a non-discriminatory policy to rent housing.

Working within the framework of housing as a human right provides a basis for addressing both practical and strategic needs.

The struggle for the right to adequate housing includes fighting for shelter from the elements, proper sanitation, potable water, and heat. It also ensures non-discrimination, affordability for all income levels, and proximity to education and health care that is accessible for all.²⁴

Using international law to fight to women's housing rights:

In order to advocate effectively for the right to adequate housing, one must be familiar with the basic documents in which it is codified, and especially those that emphasize the right to adequate housing for women.

It is vital to understand that as housing is a human right, codified in law, it is no longer the mere responsibility of the individual. Under international human rights law, when the individual cannot fulfil her rights due to obstacles outside of her control (for example due to gender based discrimination), the State has an obligation to create an environment (through laws, policies or direct intervention) that allows for the fulfilment of the right. States must comply with their responsibilities under international human rights laws and norms, and must actively remove obstacles that serve to impede women's full enjoyment of their right to adequate housing. Within the context of human rights law, victims can and should hold States accountable and seek redress.

| Sources in International Law of Housing Rights for Women |
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| Several international legal instruments recognize women's legal rights to housing, property and land. Additional regional, national and local laws also exist to protect these rights. ²⁵ |
| <ul style="list-style-type: none"> • Universal Declaration on Human Rights (UDHR): Article 25(1) • International Covenant on Economic, Social and Cultural Rights (ICESCR): Articles 11(1), 2(2)²⁶ |
| <ul style="list-style-type: none"> • International Covenant on Civil and Political Rights (ICCPR): Articles 3 17, 26, Gen. Com. 28²⁷ |
| <ul style="list-style-type: none"> • Convention on the Elimination of All Forms of Discrimination Against Women: Articles 14(h)(2), 15, 16(1)(c) and (h)²⁸ • Convention on the Rights of the Child: Article 27²⁹ |
| <ul style="list-style-type: none"> • Beijing Declaration and Platform for Action: Paras. 8, 36, 26, 35 and 65(b)³⁰ • Habitat II Agenda and Platform for Action: Paras. 25(a), 26, 27, 40 and |

²³ Moser, Caroline, "Women, human settlements and housing, a conceptual framework for analysis and policymaking", *Women, Human Settlements and Housing 12*, (Caroline Moser and Linda Peake, eds., 1987).

²⁴ For a complete definition of the 'right to adequate housing', see The Covenant on Economic, Social and Cultural Rights, General Comment 4, 'The Right to Adequate Housing,' 1994.

²⁵ For example, The American Declaration on the Rights and Duties of Man, Art. 23, African Charter on Human and Peoples' Rights, Article 14

²⁶ Article 11(1) protects the right to adequate housing; 2(2) provide for non-discrimination, (1966)

²⁷ Article 3 provides for equality of women and men; 17, protects against unlawful interference in the home (1966), General Comment 28 specifically interprets Article 3 to include inheritance rights for women (2000)

²⁸ Article 14(h)(2) provides for housing; 15, equality; 16 supra, equality in property during and after marriage (1980)

²⁹ Article 27 recognizes the right of every child to adequate housing (1989)

³⁰ Para. 8 and 36 provide for equality; 26 and 35 equal access to productive resources, Para. 65 provides for equal inheritance rights (2000)

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- Commission on Human Rights Resolution 2003/22 'Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing',³²
- Commission on the Status of Women Resolution 42/1, 'Human Rights and land rights discrimination',³³
- UN HABITAT Governing Council Resolution of Women's Role and Rights in Human Settlement Development and Slum Upgrading,³⁴

Utilizing the Right to Housing in Advocacy

The legal norms of the right to adequate housing may be utilized for action in a number of ways. Some examples of activities for improving the housing situation of women, within a rights-based framework, follow. It is important to note that the right to housing in particular must be coupled with the right to non-discrimination when advocating for women.

- Existing housing rights provisions should be used as a basis for applying pressure on governments at all levels to respect, protect and ensure these rights, and to advocate for the adoption of national and local legislation consistent with these vital sources of rights.

- Housing rights standards and norms outlined in international law also provide a basis for comparison of countries' human rights performances in the housing sector, and can form the basis for a national housing rights campaign for women. Additionally, human rights are very empowering to communities who often do not believe they have the right to live where they live, and may give up in times of evictions or other extreme violations- knowing they have the right to adequate housing will help them in their struggle.

- Depending on the type of legal system and the weight given to international law, international human rights norms should be used in legal cases where effective and appropriate. Even in cases where courts may not be bound by the specific provision, international law does still have moral persuasion. Furthermore, in some systems of national law, international law is regarded as the supreme law of the land, and must be followed. Judicial test cases are necessary, especially for women and housing rights, to set jurisprudence which the courts cannot ignore.

- Legal foundations and precepts of human rights should be advocated to the legislative decision making body of the country for use in formulating new legislation or amendments to the current law.

- Housing rights law may be used as the basis for preparing parallel reports to the various Committees that oversee the international covenants, as set forth above. The Committees are very receptive to NGO parallel reports, and the same often form the basis for the concluding observations and recommendations of the various Committees.

- Legal sources of housing rights must be invoked in all situations of housing violations, to ensure the accountability of State and non-State actors alike. Especially in times of blatant violations such as evictions or the removal of services, housing rights norms will demand violators refrain from and remedy their actions.

- Lastly, housing rights should be promulgated through academic and educational means, through further commentary, application of international law to national laws for comparison, and advocating for greater public and governmental concerns about housing rights imperatives.

Conclusion

The right to adequate housing for women has been affirmed and reaffirmed in many international documents, both legally binding on governments, and offering political legitimacy. However, women's

³¹ Para. 25(a) and 26 reaffirms the right to adequate housing, Para. 27 ensures equal access to housing, land and inheritance, Para. 40 provides legal security of tenure, and Para. 46 to integrating gender in human settlements (2001)

³² Adopted by the Commission on Human Rights, 22 April 2003, E/CN.4/2003/22

³³ Adopted by the Commission on the Status of Women, 1989, E/CN.6/1998/12

³⁴ Adopted by the Governing Council of the UN Human Settlements Programme, 6 May 2003, HSP/GC/19/L.2/Rev.1.

rights to housing, land and property remain largely unfulfilled, as seen by the statistics set forth at the introduction of this article.

Human rights rise above societal aspirations. They rise above political rhetoric and empty promises. Through their codification in international law human rights attain “timeliness, absoluteness and universal validity.”³⁵ The rights-based approach provides for a system of implementation, accountability, and change.

Actively invoking the human right to housing and non-discrimination can have a very real and positive impact on the struggle for housing and land for women. Governments and non-State actors, all with obligations to respect, protect and fulfil the right to adequate housing, land and property for women, need to be held accountable. Advocates, activists and allies, and all women, must work to hold these actors accountable to promote and protect land and housing rights, and to make these rights a reality.

³⁵ Leckie, Scott, “Housing as a Human Right”, *Environment and Urbanization*, 90 (1989).