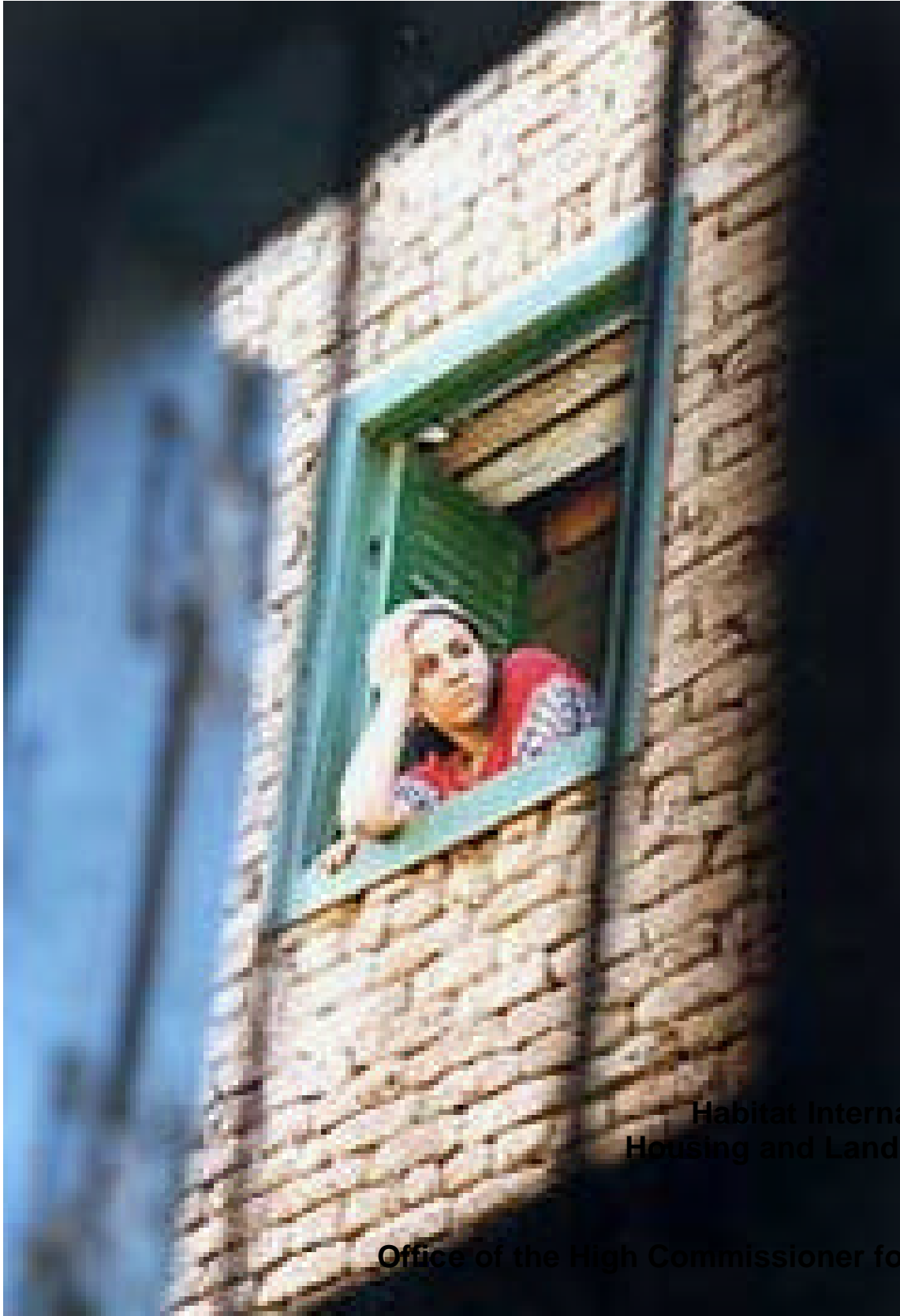


# “Women’s Right to Adequate Housing and Land”

Middle East/North Africa

Proceedings of the Alexandria Consultation



Habitat International Coalition  
Housing and Land Rights Network

United Nations  
Office of the High Commissioner for Human Rights



# **The Alexandria Consultation Women's Right to Adequate Housing and Land Middle East/North Africa**

In cooperation with

UN Special Rapporteur on Adequate Housing  
and with collaboration and support from the

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*The Alexandria Consultation: "Women's Right to Adequate  
Housing and Land," Middle East/North Africa*

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## Foreword

This report reflects the outcome of a Middle East/North Africa regional consultation on women and housing held in Alexandria in July 2004. The consultation brought together participants from Bahrain, Egypt, Israel, Jordan, Lebanon, Palestine, Sudan and Syria and the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. It was part of a series of regional consultations that have been held around the world: African Regional Civil Society Consultation on Women and Adequate Housing, Kenya, Nairobi, October 2002; Asia Regional Consultation on the Interlinkages between Violence against Women and Women's Right to Adequate Housing, Delhi, India, October 2003; Latin America and Caribbean Regional Consultation on Women and Adequate Housing, Mexico City, Mexico, December 2003, Pacific Regional Consultation on Women's Rights to Adequate Housing and Land, Nadi, Fiji, October 2004; North America Consultation on Women and Adequate Housing, Washington, US, October 2005, and the Central Asia/Eastern Europe Regional Consultation on Women and Adequate Housing, Budapest, Hungary, November 2005. The aim of the consultations has been to gather information and testimonies from grassroots representatives of civil society for the UN Special Rapporteur on adequate housing. The consultations represent a crucial contribution to the preparation of the Special Rapporteur's study on the status of implementation of the right to adequate housing with respect to women, which will be presented to the UN Commission on Human Rights.

The Office of the High Commissioner for Human Rights (OHCHR) supports the Special Rapporteur on adequate housing in his work. OHCHR worked with the Housing and Land Rights Network (Middle East/North Africa Program) in Cairo as an implementing partner to enable the organization of the regional consultation on women and housing held in Alexandria. We would like to thank the Housing and Land Rights Network for having made the consultation and the present publication possible.

The testimonies received from women worldwide have shown that the realization of women's right to adequate housing faces obstacles in various spheres, from remaining discriminatory legislation to traditional and cultural practices and attitudes that discriminate against women. Like the other regional consultations, this one explored and emphasized the links between violations of women's right to adequate housing and, among others, inheritance rights, armed conflict, forced evictions and domestic violence. We are convinced that the reader of the present publication will find it a very useful source of illustrations and examples as to the particular challenges facing women from the Middle East/North Africa region. We hope that it will prove itself useful, and provide food for thought, as Governments, civil society, and individual women and men intensify their efforts to ensure that progress is made in achieving the full realization of the right to adequate housing (as a component of the broader right to an adequate standard of living) for everyone in the region.

Mara Bustelo  
Unit Coordinator  
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Office of the High Commissioner for Human Rights  
United Nations



## Preface

This consultation was the fourth in a series of civil society regional consultations that have played a critical role in unearthing the experiences of women facing violations of their right to adequate housing and land on a daily basis.

Too often the United Nations is seen as a remote entity, operating at a level far removed from the grassroots. These regional consultations have served as a unique mechanism for bridging this gap, bringing together grassroots women's and civil society groups to further inform the normative content of the discourse on women's right to adequate housing.

Pursuant to this goal, the inter-regional consultation process has featured the training of participants from groups working on women's rights and housing rights, through the use of the Habitat International Coalition – Housing and Land Rights Network Tool Kit, on strategies and methodologies for the prevention of violations, monitoring, advocating for, and overcoming obstacles to women's enjoyment of their rights to adequate housing and land. Central to this process have also been the individual, and often intimate and courageous testimonies, provided by grassroots women and organizations working at the local and national level to inform UN processes.

The testimonies at Alexandria were particularly informative, received from a range of women—and men—belonging to civil society organizations operating across seven countries, including Bahrain, Egypt, Jordan, Lebanon, historic and occupied Palestine, Sudan and Syria. Each testimony explored the specificities of the

contexts in which women were facing considerable violence and discrimination in their efforts to claim their rights, and highlighted the vital contribution such grassroots dialogues offer to inform more amply the core content of the right to adequate housing.

The central themes arising from the Alexandria Consultation included the sources and solutions to women's housing rights problems related to domestic violence, urban and rural forced evictions, political dislocation, inadequate housing conditions, legal obstacles to security of tenure, occupation/militarism and globalization/privatization. In the current state of geo-politics, and its consequent population transfers and displacement, colonization and foreign occupation across the region, militarization has emerged as a recurring feature of women's daily struggle as guardians of the home.

Inheritance also featured prominently in testimonies and discussions, with a representative of a legal aid organization providing guidance and advice on regional norms and practices affecting women's enjoyment of inheritance rights to the home and land. These rights of women often tend to be superseded by the advancement of other, competing, male-dominated and gender-blind priorities, such as national liberation or religious adherence. For many women in the Middle East and North Africa, maintaining a home and family has become synonymous with the loss and sacrifice of their rights, often with no recourse or remedy in sight.

The use of the concept of violence against women, as an inroads to understanding the ways in which women experience violations of their right to adequate housing, proved incredibly powerful as a lens for the lending of greater clarity to an understanding of the contexts within which women's rights are violated. What became most apparent was the predominant use of violence against women as a tool of patriarchal systems and structures that prevents women from accessing and asserting their right to housing, further entrenches the pervasive culture of silence that, heretofore, has precluded a thorough and rigorous treatment of women's housing issues. As in other regions, these issues run a gamut from economic empowerment to forced eviction and dispossession. Many women continue to live in a constant state of fear and insecurity, perpetuated through the use of violence and the impunity of State and non-State perpetrators of such transgressions. Of particular note was the recognition of impact of inadequate housing as an exacerbating factor, rendering women more vulnerable to gender-based violence, including violations of personal dignity and health.

Grounding the understanding of women's rights and their violation in women's experiences elucidated further the need to apply a

substantive equality approach to issues of gender equality, and an intersectionality approach to non-discrimination. By implementing such approaches, we become better able to address both structural and individual inequalities, as well as more acutely examine the differential manifestation of adequate housing between individuals due to the compounded effect of converging sources of discrimination.

The many problems highlighted throughout the Alexandria Consultation led participants to agree upon the need for much greater civil society and UN agency attention on these issues. They also offered several practical recommendations regarding the regulation of economic globalization and privatization negatively impacting housing markets, the creation of collaborative mechanisms to foster interaction with the United Nations, and the encouragement of further cooperation between women's interest groups and housing organizations.

It becomes clear, therefore, that the experiences of women shared during the consultations can contribute significantly to both strengthening standard setting at the national and international level, as well as informing processes of policy formation. Throughout the ongoing consultations, women demonstrated tremendous personal strength and tenacity through their perseverance and continuous efforts to reassert their agency. This is reflected in the strategies identified for the local, national and international level, in the areas of legal strategies, state regulation, economic strategies, social mobilization and awareness raising, research, and direct action.

These regional consultations, begun in 2003, have inaugurated a process that since has extended to other regions and theaters of the world, including the Pacific Rim, Asia, east Africa, Latin America, North America, Eastern Europe/Central Asia and the western Mediterranean Basin. Of all the positive outcomes that these consultations have engendered, one of the most fruitful has been the cross-fertilization of work on women's right to adequate housing, with appreciably increased linkages between housing rights networks and women's rights networks now in place across the globe. All involved parties have vowed to continue advancing this spirit and climate of collaboration. What remains to be seen, however, is how the world's government will respond to the deep-felt anguish that women have voiced worldwide as they continue to give expression to their adversity, and struggle to secure their right to adequate housing and land.

Miloon Kothari  
Special Rapporteur on Adequate Housing  
United Nations Commission on Human Rights  
November 2005



## Preconsultation Workshop

### *Session I: Introduction to the Legal Concepts and Framework of the Human Right to Adequate Housing*

#### **Overview of program, materials, goals and objectives**

Joseph Schechla, coordinator of the Habitat International Coalition's Housing and Land Rights Network welcomed the participants and resource persons to the opening session of the Alexandria Consultation with the UN Special Rapporteur on adequate housing. Following a brief introduction to Habitat International Coalition (HIC) and its Housing and Land Rights Network (HLRN), Joseph explained the term *maw'il*, in Arabic, as the now well-established translation of "habitat," and part of the Coalition's name, dating back to HIC's founding in 1976. He explained that HLRN promotes cooperation among, and services for members on several levels, including a special focus on serving HIC members of HLRN specialized in the human rights dimensions of human settlements and sustainable development, working within the larger Coalition and cooperating with other networks and international agencies.

Joseph presented Miloon Kothari as both the UN Special Rapporteur (SR) on adequate housing and as coordinator of the HIC-HLRN South Asia Regional Program. He also introduced Cecilia Möller, human rights officer from the Office of the High Commissioner for Human Rights. Each will have a role in presenting the material and methods over the first two day of the preconsultation sessions.

### **Overview of program, materials, goals and objectives (JS)**

In presenting the objectives of the Alexandria Consultation, Joseph referred to the cooperation and support from OHCHR in making it possible. The present consultation formed the fourth in a series of regional consultations between the SR and civil society already held in East Africa, Latin America and Asia. The findings of the regional consultations will be the subject of the SR's report on women's rights to housing and land to the UN Commission on Human Rights in 2005. There are actually numerous similarities to report about the problems and challenges in all of these regions, but always a variety of local specificity and creativity at finding solutions. It is on the basis of this common experience and the respective lessons to be learned from each other that these consultations reflect the objectives of civil society as a whole to find ways to ensure the respect, defense, promotion and fulfillment of the human right to housing and land while applying the principle of gender equality. The hope set out for these sessions is to help enhance participants' capacities to monitor and defend women's rights, in addition to the development of a constructive report to the States forming the UN Commission on Human Rights.

To achieve these goals, the Alexandria Consultation was organized to provide two days of training in the method of monitoring the human rights to adequate housing within the overriding principle of gender equality. Thus, the first half of the consultation provided monitoring tools within a special framework of housing rights to be applied at the level of national experiences. Following the participants' testimonies of cases over the following two days, the participants and the SR will review the diverse, analogous and repetitive experiences at the regional level to discover patterns and explore strategies to be adapted to the region.

The training curriculum followed a logical course, moving from general to specific in its scope, then from theory to practice in its applicability. In introducing the human rights message, therefore, the information presented in the training portion adhered to a simple outline of four pivotal points comprising the message of human rights and, consequently, of which housing rights form a part:

1. a common heritage of humankind;
2. a common language among peoples and states;
3. means to defend ourselves and other from harm; and
4. tools to build a better community, society and world.

In the first of these points, human rights, in their most general sense, form a common heritage of all people, regardless of nationality, religion, class, geography, race, gender or other status. Not only are human rights the outcome of common, repetitive and

universal struggles against tyranny, including uprisings against slavery, workers' collective actions, revolutions, social science, moral system (including religion), national liberation and anticolonial struggles, human rights also reflect the needs and basic dignity inherent in each human being.

Secondly, human rights constitute a common language among peoples as well as States. In this sense, human rights treaties and other instruments have emerged as the shared reference that embodies the historic lessons arising from crimes and other failures of the past to advance human well-being. Human rights law recognizes and codifies the common heritage so that we can identify a violation and pose its solution with legal specificity, while providing a basis for all parties to rationalize the legally framed outcome.

Beyond theory of human rights values and the considerable ink on paper, human rights give us the means to remedy and defend ourselves and others from harm. Therefore, whether the affected persons are already victims or vulnerable to future victimization, human rights serve as both remedial and preventive devices in the struggle against violation.

In addition to the negative application of human rights—that is, deterring actions—they also possess normative qualities for positive application as tools to build a better community, society and world. The common struggles in our human rights heritage have given rise to methods, guidelines, plans of action and other tools to institutionalize the respect, defense, promotion and fulfillment of rights. This has seen the field of human rights emerge as a bona fide profession with its own methods for practical application, beyond the field of positive law. The first portion of this consultation, therefore, is dedicated to conveying concepts and techniques that answer the question of *how* to monitor, formulate and argue and achieve practical application of the right to housing and land for women on an equal and nondiscriminatory basis.

### **Self-introduction**

The participants and resources persons began the consultation with an exercise of self-introduction and abstract self-expression. All were assigned the task to depict a value or concept of the human right to adequate housing (HRAH), or “what home and housing should be,” by drawing one to three symbols that come to mind. The participants then presented their concepts and drawings by way of introducing themselves to each other.

Huweida Ahmad, Center for Democracy and Workers Rights (Ramallah, Palestine):

“Every family has the right to have a shelter and adequate housing. An adequate housing should be a place to read, sleep freely... Secure space and healthy housing are my dream.”

**Hanan Masry, National Institution for Social Care and Vocational Training (Beirut, Lebanon):**

“Housing protects the person; most important is to keep family together, ensuring the right to inheritance and providing sense to belong to a society.”

**Hanaa’ Hamdan, Adalah: The Law Center for Arab Minority Rights in Israel (Shifa’ `Amr, Israel):**

“Home is security and safety, stability, involves the right not to be evacuated. Electricity should be available. The environment should be fit for women, with access to special social services.”

**Hala Abd al-Qadir, Center for Egyptian Women’s Legal Assistance (Cairo, Egypt):**

“The home is built on three main frameworks: the family, with women as its pillar. However, women outside the [nuclear] family should be able to have adequate housing also.”

**Haifa Bitar, optometrist, novelist (Lattaqiyya, Syria):**

“My illustration is a private room for women in the house. Women should not work 24 hours. The woman is always seen as the one who should look out for everybody, but she also should have her privacy.”

**Fida Abd al-Latif, Applied Research Institute, Jerusalem—ARIJ (Bethlehem, Palestine):**

“My sketch is of a cell, which is the main unit of any body. As such, this cell, as symbolizing the home, contributes to the development of society. The circle also represents protection, and the other symbol portrays protection of inner feelings of women. The concept of adequate housing should be flexible, because it is different for everybody.”

**Adella Biadi, Mossawa: The Advocacy Center for Arab Citizens in Israel (Haifa, Israel):**

“My house is represented by a symbol of peace, as it should be specifically in society where women are marginalized. Will lead to independence for women, so that she will give more, and will be able to participate in the construction of the society too.”

**Abla Abd al-Hadi, Center of Housing Rights and Eviction—COHRE (Amman, Jordan):**

“A womb with a house inside, where there is peace of mind and safety.”

**Zinat al-Askary, The Egyptian Center for Housing Rights—ECHR (Cairo, Egypt):**

“A bed in which someone sleeps and dreams of a safe and happy baby. The lights beside the bed symbolize how we are attempting to make this dream come true.”



Wurud Yassin, journalist and member of Bariq Association to Combat Violence against Women (Cairo, Egypt):

“My house is set inside the top of a palm tree for protection, next to a small palm bending to show difference between sound housing and real ones with problems.”

Jamal Umran, Bahrain Society for Human Rights (al-Manama, al-Bahrain):

“My drawing is of three symbols: The first is a crying eye with a Palestinian flag, representing someone who does not have home. The second symbol is a pregnant woman whose unborn baby does not want to be born, because the baby does not want to live in the world of today. The third symbol represents people who cannot go back to their lands and don't know where to go in globalised world. The fourth image is a smiling baby face against a blue sky.”

Karam Saber, Land Center for Human Rights—LCHR (Cairo, Egypt):

“Flower coming from a place we don't know anything about. Representation of interchangeable roles between men and women (words in two colors on two sides of a line).”

Maged Husni, Coptic Evangelical Organization for Social Services—CEOSS (Hilwan, Egypt):

“My sketch symbolizing home is a big umbrella that protects people under from natural disaster and all problems around.”

Rim Wa'il, Association for the Development and Enhancement of Women—ADEW (Cairo, Egypt):

“Home is place for satisfying basic needs: food, protection and security, because a house is not only a bed; it is also privacy and has all facilities, healthy air, services, etc.”

Tamir Sulaiman, Center for Women's Affairs (Cairo, Egypt):

“A house that is a home is a place giving the feelings of privacy and freedom.”

Muhammad Jassam, A'idun Association (al-Manama, al-Bahrain):

“Two main pillars symbolize home for me: (1) a physical base with all the necessary facilities and (2) a second one that is moral, upholding the permanent right to shelter and protecting against all unfavorable conditions. However, one can lose everything but not your sense of belonging to a place. As long as you fight for your country, you exist.”

Nagla al-Imam, Bariq Association to Combat Violence against Women (Egypt):

“I sketched a family with rosy future, but no roof.” She explained that “all should have, above all, access to healthy air and water. The balls full of air are light, but also very powerful because they are healthy. Also the presence of animals shows right to coexist with every living thing in the world.”

Asma Juma`a, Entishar Charitable Society (Khartoum, Sudan):

“My symbols of adequate housing are an umbrella, a flag, flowers and the family, which constitute the home. The umbrella represents protection for the family and the government responsible to ensure that, hence the flag.”

Sham’a Saidum, Arab Women’s Habitat Network (Amman, Jordan):

“As in this picture, adequate home can be a simple house, but most important among its contents is happiness.”

Manal Tibe, The Egyptian Center for Housing Rights—ECHR (Cairo, Egypt):

“Adequate housing is a place that provides physical and mental health and safety with enough light. From a cultural perspective, adequate housing here is a home with an Egyptian flavor. It enshrines the collective right for men, women and children, comprising the family. Adequacy is also linked to location, with access to markets and services.”

Cecilia Möller, Office of the High Commissioner for Human Rights—OHCHR (Geneva, Switzerland):

“My symbol is a small family with signs and banners in their hands. We all should have an influence on what we want the house and life in it to be. This depiction shows how different each sees one’s house. The sun represents freedom to choose place to live.”

Joseph Schechla, Housing and Land Rights Network (Cairo, Egypt):

“My symbols of adequate housing are three: a pillow for comfort and relaxation at home, a padlock as protection of property and physical security, and a valentine heart; for home is where the heart lies.”

Miloon Kothari, UN Special Rapporteur on adequate housing (New Delhi, India):

“My concept of the home is represented as the shade of a tree, where one feels peace, affection and roots to indicate stability and identity.”

## **From human needs to human rights: the legal sources of the human right to adequate housing**

*Cecilia Möller*

*Having completed their presentation of the elements of home and adequate housing through their sketches, the participants demonstrated the moral dimensions of the right through their common, normative approach to “what home and housing should be.” The following session introduced the legal dimensions of home and the right to adequate housing; therefore, giving specificity to the common language among people and States.*

Cecilia Möller addressed the human right to adequate housing (HRAH) through its legal sources. She reviewed the distinction and interrelation between civil and political rights (CPR), on the one hand, and economic, social and cultural rights (ESCR), on the other, as reflected in the two international Covenants of 1966. Traditionally, CPRs have received more attention in most UN bodies and human rights organization; however, ESCR deserve equal prominence, as they are also the subject of human rights law. HRAH is recognized in numerous international agreements: UDHR, CRC, CEDAW, CDESCR, in particular. The International Covenant on Economic, Social and Cultural Rights (ICESCR) contains the most classic and clearest recognition of HRAH in its Article 11.

As recognized in the introductory presentations of the meaning of home from the moral aspect in the previous exercise, adequate housing is so much more than a house. The law also reflects that, and adequate housing also bears a direct link with a bundle of other human rights also recognized in international law. These include: the right to water, education, social services, etc. If any of these other rights is unfulfilled, then one cannot really say that the housing is adequate.

### **Development of the right**

The Universal Declaration of Human Rights (1948) is the first comprehensive statement of human rights principles from the United Nations. Article 25 of the declaration recognizes the right to housing:

Everyone has the right to a standard of living adequate for the health and well being of himself and his family including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

But as a declaration, it did not carry any legally binding obligations on States. To transform the message of human rights from a common language to tools, the principles of the declaration had to evolve into binding treaties (the Covenants and Conventions). Conventions are a general legal affirmation of minimum standards, but States ratify them they impose justiciable obligations on the

#### **The Message of Human Rights:**

- **Constitute the common heritage of humankind**
- **Are the language that frames human (and interstate) discourse and dialogue**
- **Help people protect themselves and others from harm**
- **Are tools for building a better society and world**

responsible governments to carry them out.

The first legal source in treaty law to HRAH is in Article 11 of the ICESCR (ratified by 148 States):

The State Parties to the present Covenant recognize the right to everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

Further, Article 2 of the ICESCR obliges States to take appropriate steps to ensure the progressive realization of this right. Other rights in the ICESCR (e.g., the right to work, right to food, etc.) are articulated in greater detail in the Covenant and the corresponding obligations are better understood than the right to housing. However, the right to housing is referred to only by one phrase in Article 11. It has been important, therefore, to clarify the obligations further. This has been done by civil-society movements that have successfully taken cases of violations of HRAH to the UN's political bodies (e.g., UN Commission on Human Rights) and legal bodies (e.g. treaty committees).

The UN Committee on Economic Social and Cultural Rights (CESCR), which monitors ICESCR through its review of States' implementation of the Covenant, has noted widespread violations of HRAH and a lack of clarity on the obligations of States to uphold the right. Further, they were impressed by the literature and testimonies collected through the civil-society campaigns. As a result, in 1991, they adopted General Comment No. 4, which provides a legal interpretation of the nature of obligations under this right.<sup>1</sup> In General Comment No. 4 the Committee identified seven essential elements of HRAH, the composite of which form legal specificity as to what makes up the human right to adequate housing. While the challenge lay in defining "adequacy," the General Comment set forth the following elements:

#### *A. Legal security of tenure*

The law has to protect people's right to stay in their home and their right not to be arbitrarily evicted, including people who are not citizens; e.g., refugees, migrant workers etc. An owner has the right to bequeath the housing unit to their children. There can be collective and individual ownership, reflecting indigenous and tribal people's concepts of ownership. Even those not enjoying security of tenure, possess the entitlement to secure tenure, and the General Comment urges States parties to "take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups."<sup>2</sup>

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<sup>1</sup> A/43/8/Add.1.

<sup>2</sup> CESCR GC No. 4, para. 4(a).

*B. Accessibility to services, materials, facilities and infrastructure*

This can include access to building materials, roads, energy, water, sanitation, education, health, land, water. Access to land is a critical issue for indigenous people', people living in areas of armed conflict and people displaced by

large scale development projects. People can advocate for land as the right to property, but also as part of HRAH.

**ICESCR (1966), Article 11.1**

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

*C. Affordability*

The level of expenditure for housing should be of a reasonable level and should not cause other rights to be deprived; e.g., spending more than 25% of your income on housing is considered excessive. The level of affordability for housing is, therefore, assessed according to how other needs remain unmet. Financial services or markets need to be regulated to ensure they are not discriminatory. The market for building materials also needs to be regulated, for example, to ensure they are not subject to monopoly control.

*D. Habitability*

This includes having a sound structure that protects inhabitants from the elements. The nature and specifications of the sound structure will vary according to the local climate and environment.

*E. Accessibility*

This element refers to physical accessibility and the State's obligation to act positively to ensure accessibility, as well as refrain from acting so as negatively to affect accessibility. That means that the State must ensure that no one builds a road, wall or other obstruction in front of the access to housing. In Palestine, Israel's construction of the West Bank barrier has prevented people from accessing their lands and homes, and the building of trenches has obstructed humanitarian services from accessing Palestinian homes. State's hold the duty to ensure that there is sufficient housing in the market to accommodate the physical accessibility criteria of people with special needs, including elderly people, people with disabilities, people living with HIV/AIDS.

### *F. Location*

The location of housing must be conducive to the enjoyment of civil services and livelihood, allowing access to land for livelihood. Location has been an important issue in slum relocations. For example, slum dwellers forced to leave under upgrading program, are relocated to places far outside of the city where they cannot access sources of livelihood, because they are forced to travel long distances at higher costs. The long distance particularly affects women who risk facing different forms of violence when commuting. A common consequence is women lose their jobs, because they cannot travel the long distances from their housing to the workplace after resettlement.

### *G. Cultural adequacy*

The housing provided needs to accord with the cultural needs of a group. However, care needs to be taken when addressing cultural adequacy, in order to strike a rightful balance such that other violations, including against women, are not perpetuated through abusive traditional practices or forms of discrimination on the pretext of cultural relativism.

### *Congruent Rights*

In addition to understanding the elements of HRAH identified in CESCR General Comment No. 4, it is also necessary to understand the congruent rights (i.e., rights and freedoms that are stand-alone rights and freedoms but affect, or are affected by HRAH). Some congruent rights related to HRAH include:

- Right to life;
- Right to health; e.g., lack of sanitation and water in housing can result in health hazards;
- Right to culture;
- Right to property; i.e., in some countries, a person may also be denied other rights such as the right to vote, if s/he does not own property;
- The right to property was recognized in the UDHR Article 17, but omitted from ICESCR.<sup>3</sup> Recently the

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<sup>3</sup> One principal reason why the right to property is not recognised in the conventions is because the ICCPR and the ICESCR were developed in the context of the Cold War with its ideological rivalries. At that time the Eastern bloc was strongly advocating economic social and cultural rights, as they saw these as the physical needs that the State was committed to satisfy. However, the Western bloc was strongly advocating civil and political rights, such as the right to vote, which they saw as the hallmarks of democracy, without the guarantees of physical needs through public services. Within this split, private property ownership was seen as a capitalist value, but not a human right that the Eastern bloc could prioritise by inclusion in the CESCR. Such divisions over ideology still operate today, for example, where no right to health or adequate housing is recognized in the United States Bill of Rights, and the United States remains the only Western industrialized country not to have ratified ICESCR.

CEDAW Committee also has begun including the right to property in its deliberations on women's rights);

- Right to livelihood (Article 11 of ICESCR); Right to information: without information people cannot make choices; for example, information about development projects can affect people's ability to protect their HRAH;
- Right to development: as Amartya Sen discusses the right to development in a framework of human entitlements of both capacity and capability;<sup>4</sup>
- Freedom of movement; that is, choosing where to live and in terms of sustaining adequate
  - housing;
  - Right to privacy and family life, which prohibits the State from intervening arbitrarily in people's homes (but does not prohibit the State from pursuing violence or other violations of rights carried out inside the home as well as other crimes). A lot of infringements of women's rights take place within the family, but the right to family does not permit the violation of women's rights within the family;
  - Right to an adequate standard of living;
  - Right to gender equality;
  - Freedom from torture, and "cruel and inhuman or degrading treatment or punishment," as in Article 16 of the Convention against Torture (CAT), has provided for a growing movement to recognize that violations of housing rights as a threat to certain civil and political rights as well; and that conventions such as the CAT are relevant to civil and political and economic social and cultural rights. In 2001, the ICCPR Committee recognized that economic closure and demolition policies contravene the CAT.

States also bear "minimum core obligations" that, in the case of HRAH, include the obligations (1) to **respect**; that is, agents of the State avoid actions that lead to deprivation; (2) to **protect**, that is, to ensure that third parties do not act so as to lead to deprivation; and (3) to **fulfill** the right by providing services and assistance to those deprived of elements of the right, as well as promoting general awareness of the right, monitoring progress in its application and report on that progress to the relevant treaty bodies.

<sup>4</sup> See "Information, education, capacity & capacity building: Popular sources" in *HLRN Housing and Land Rights Toolkit*, at: <http://toolkit.hlrn.org/English/explore/index.htm>

CESCR's General Comment No. 7: "right to housing: forced eviction" is dedicated to addressing the phenomenon of forced evictions and their impact. The Committee has defined forced evictions as:

the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

The GC identifies the practice as a common form of housing rights violation and sets out minimum human rights conditions to be in place before an eviction can be considered compatible with the human rights obligations upon States parties to ICESCR. It is good to keep in mind the special impact of evictions on women. In the coming days, we will be making repeated reference to related concepts and entitlements to compensation, alternative housing, judicial remedies and assessing whether or not women are also consulted in the process.

Cecilia referred to the overriding principles that apply to all rights. These are obligations on States and guides for monitors to recognize the indivisibility of rights, and to ensure self-determination, nondiscrimination, gender equality and rule of law as rights. States also bear "minimum core obligations" that, in the case of HRAH, include the obligations (1) to avoid deprivation, (2) protect from deprivation and (3) provide assistance to those deprived of the elements of the right. Thus, in international human rights law, the State bears three levels of obligations; that is, to defend, protect and fulfill the right in a process of progressive realization and international cooperation.

State's agreement to the indivisibility-of-rights concept is detailed in the Vienna Declaration and Plan of Action (1993). In addition to different treaties mentioned, international multilateral agreements such as the Vancouver Declaration on Human Settlements, the Istanbul Declaration and Habitat II Agenda, as well as the Millennium Declaration with its agreed-upon Millennium Development Goals (MDGs), reaffirm the State's commitments to already binding actions.

Upon the 1948 adoption of the Universal Declaration of Human Rights (UDHR), the remaining concern was how to make such declarations binding. It took 18 years to produce the two Covenants, followed by the other main human rights treaties. It took another ten years for the Covenants to be implemented, because the rights were not considered binding upon all the participating States until a sufficient number of ratifications brought the treaty into force.





The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted in the same period, too. ICERD actually included both categories of rights classified separately only in the two Covenants. All these human rights treaties have independent monitoring bodies. These are committees of experts that meet regularly to determine whether, and to what degree the contracting States parties have fulfilled their treaty obligations. They establish and apply human rights standards in two key ways: (1) by issuing international guidance through “General Comments” to apply to all States parties and (2) by investigating States compliance and issue legal findings in the form of “Concluding Observations” on the countries that have ratified ICESCR.

It is also possible to submit individual complaints to some of these treaty bodies. That is the case for CCPR or CEDAW, but not CESC. However, there is a move to seek adoption of an Optional Protocol to ICESCR, which makes submitting individual complaints outside the normal cycle of State reviews a future prospect. Hopefully, with the adoption of an Optional Protocol to CESC, the human rights community and victims will have more opportunities to defend ESCR, but there are still many steps to take.

The UN General Assembly and Commission on Human Rights began to create special procedures during the Cold War as independent monitors of rights. At the beginning, these individuals were mandated to review and report on either country situation or civil/political exclusively. However, the first special procedure in ESCR was established in 1998, when the Commission established the mandate of the Special Rapporteur (SR) on the right to education. Since then, such procedures on ESCR have developed further, now with mandates covering the rights to food and housing (in 2000), and health (in 2002).

The main task of a SR is to report yearly on trends, undertake country missions, engage in dialogue with governments on urgent cases and provide an overview of the existing legal framework and development of UN monitoring and implementation bodies.

### **Discussion:**

*In response to a question concerning possible sanctions against violating States, Cecilia explained that there are no specific tools for that in human rights treaty law. Such measures rely more on political will and are carried out by the political bodies (comprised of States), since the authority to impose sanctions actually does not rest with the treaty bodies.*

*A question arose about the criteria by which some States determine housing to be “illegal” and if there is relevant international human rights criteria. Cecilia responded that human rights law does not determine the physical planning criteria of States, but provides broad guidelines as to what values the State should respect, protect, and fulfill as rights. More specificity is found, however, in the General Comments and the jurisprudence of the treaty bodies on particular States and their practices. During the periodic reviews of States, an issue of planning criteria may arise in so far as they affect certain rights and elements of rights, particularly in light of the over-riding principles of self-determination, nondiscrimination, gender equality, rule of law, international cooperation and nonregressivity.*

*A participant observed that we always examine HR from a theoretical point of view. The problem actually arises where State obligations often are only words on paper, but governments do not respect these words. Houses are demolished down every day without any alternatives for their inhabitants. An Optional Protocol is important to put pressure on countries by insisting on the exposure and resolution of such cases. Cecilia noted that, even in theory, many countries do not recognize many codified rights and measures that should be taken. The practice of forced eviction provides one example.*

*One participant added that reporting process helps a lot to have States take steps to comply with obligations. Parallel reports and*

*annual updates to treaty bodies are important.*

*An observation from a participant with 15 years experience in the human rights field indicated that there is not much hope in UN procedures, but at least the Covenants and Conventions help in argumentation with the States. We have terms of reference and legal procedures; we should not just wait, but also be active to bring about change and raise awareness. Not so long ago, NGOs did not know anything about housing rights, but now use housing rights arguments to achieve their objectives. The UN's only responsibility is monitoring, but enforcing is a local matter.*

*On that note, a participant pointed out that civil society's role is not merely monitoring, but the situation requires us to reach immediate solutions to problems also in the very laws discriminating against women in housing. Protecting rights will, in some cases, require providing shelter.*

*Participants also noted that, over the years, we have seen the further development of law, including international law, but we live in a world of flagrant violations of these laws. Israel's colonization and occupation of Palestine, multinational support for local tyrants and the prosecution of the most-recent war against Iraq are reminders. The USA and WTO impose new changes and the global economic system seeks total freedom for the rich. Meanwhile, a law in Egypt prohibits forced eviction, but government agents use illicit interpretations of the law to expel people. Therefore, laws and UN Conventions are not respected. The question was raised as to whether we really need other instruments. The proposal was made for the UN to find innovative and more-effective mechanisms to protect HR, such as Social Council with authority comparable to the Security Council.*

*Cecilia observed that many questions are emerging, but making essentially two main points: defining well HRAH is important, but just as important is what practically one can do. On the subject of this session—housing rights in the law—we will be exploring ways to apply HR law by using existing tools to create the situation whereby the States feel obliged to act in accordance with their HR commitments.*

*Joseph reminded also that one of the purposes of the session is to discover how the inherent values and dignity of people (the common heritage) are reflected in the law (the common language). Part of the role of the SR is to deliver that message to the Commission on Human Rights through consultation with people struggling in everyday life to realize HRAH. Law is one tool to enforce the rights that we try to achieve; whereas, in the past, people used to talk about problems, now we can speak about "violations" and "obligations" with legal specificity.*

## The elements of the human right to adequate housing as a monitoring framework: The “Toolkit”

*Joseph Schechla*

The specificity in the existing legal definition of the human right to housing and its corresponding State obligations provide us with a methodology for monitoring and problem solving. It combines the moral and legal arguments and allows us to pass from the theoretical aspects of the human right to the practical dimensions. Part of that practicality is in enabling us to pinpoint violations, identify victims and assign responsibilities and corrective action to the parties concerned. This methodology can be applied to the monitoring of all human rights, but has been adapted to apply to the elements of HRAH.

To make a human rights case, we should build our presentation on three main pillars: moral argument, legal authority, and

### **State Obligations to International Cooperation and Nonretrogression in ICESCR**

Article 1.2: ...All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law.

Article 1.2: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means...

Article 11.1: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

numbers/statistics. We use all three in our work, but particularly give attention to numbers and statistics in field investigation. The reliability of numbers is vital to a strategy that seeks compensation for victims in a given case.

UN Charter (1945), as a legal instrument binding States, recognizes and embodies human rights within the UN Organization. Following the tragedies of WWII, the Charter contributed recognition of two previously uncodified human rights: self-determination and nondiscrimination. Greater specificity of what was meant by “human rights” in the Charter then gave way to the drafting of the UDHR (1948), including its Article 25 on the right to adequate housing.

An often-cited reason for some States’ reluctance to recognize or uphold ESCR and join the Covenant is that implementing those rights necessarily involves expenditures in contrast to CPR. Certain CPR

also involve certain expenditures, however, whether in the conduct of periodic elections or ensuring a fair and efficient trial. It is also true that neglect of rights to health, housing and environment, etc. often leads to catastrophic costs in the longer run.

One commonly held position is that ESCR are only to be realized gradually. In reality, some rights such as housing cannot be universally fulfilled overnight, especially if starting from a position of widespread inadequacy and violation. However, some aspects of HRAH cannot wait for gradual application, particularly where the over-riding principles are concerned. State obligations involve the *immediate* application of the principle of nondiscrimination in order to respect, defend and fulfil the right.

In addition to the over-riding principles of application already mentioned, we should also note that, in the case of ICESCR, the States parties are obliged under Articles 2 and 11 to ensure “progressive realization” of the covenanted rights, including by means of international cooperation. Thus, when monitoring ESCR, we apply these over-riding principles as well.

Despite attempts of State ideology to keep right categorized separately, the application of human rights to victims or vulnerable groups require the reconstitution of the rights into their organic compound. This is also true when implementing a single right, the interconnections among one right and others, as well as across the imperfect categories of rights. Therefore, when we list the relevant elements and “congruent” rights related to adequate housing, we naturally take into consideration other rights. Moreover, we must take into consideration the over-riding principles, as enumerated above, which are commonly recognized in each human right treaty.

***Elements of HRAH:***

Legal security of tenure

Services, materials,  
facilities &  
infrastructure

Affordability

Habitability

Accessibility

Location

Cultural adequacy

*General Comment No. 4*

While we look to the two main legal sources of HRAH (UDHR Art. 25 and ICESCR Art. 11), both of these are cast in generic terms, brief and nonspecific. The elements of “adequate housing” set forth in GC 4—already identified instinctively this morning by participants in their sketches—are integrated into this source of law and thus monitored as such by CDESCR. What we must keep in mind is that these elements also are interrelated and interdependent.

For example, legal security of tenure is essential to adequate housing, but is not sufficient as a criterion on its own. One can have secure tenure, including equal inheritance rights, but the location far from services and sources of livelihood, or the quality of the structure may not protect from the harsh weather. Likewise, a fully serviced and culturally appropriate home may not be adequate if one is living under the constant threat of eviction. Most elements of the right may be realized in your adequate residence, but if you are handicapped without proper access to the home, then it would not meet your minimum criterion for adequacy. If a government claims to ensure housing units are available in the market, but the needy cannot afford them, then the duty holder may not be meeting its obligation of regulating the housing market or providing other programs to ensure that the neediest have access to an adequate place to live.

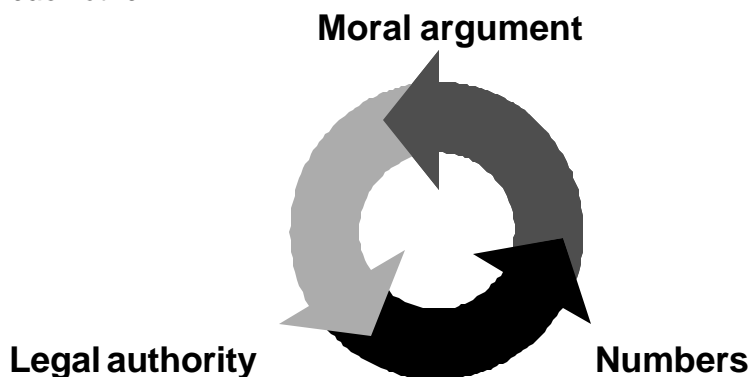
Cultural adequacy, as with all elements, must be further defined locally. In a recent report on the right to housing in Palestine, the Center for Democracy and Workers' Rights published a draft national Palestinian definition of adequate housing. It identified the layout and space criteria such that an adequate dwelling in Palestine would contain at least three rooms. This would allow for privacy between the sexes, as well as a central place for receiving guests.

We can see the importance of cultural adequacy in the case of its violation. For example, some slum resettlement in New Delhi placed the inhabitants in new housing far from the center of town and their original livelihoods. The cultural aspect of the housing came clear when the residents were placed randomly in courtyard configurations, with regard to their religious sensibilities. So, when the Muslims began grilling meat in the same courtyard with vegetarian Hindus, new social conflict arose.

*Hanaa noted that defining cultural adequacy in the Arab world places a great emphasis on privacy. Miloon Kothari pointed out that cultural adequacy for most land-based and indigenous peoples means maintaining their identity as inextricably linked to a particular land. This reality demonstrates the linkage between the cultural element and the land as a housing resource and environmental good. He added that, in rural communities, common space is an important cultural aspect. Specific building materials used to build houses, many times disregarded in formal planning. Traditional communities recognize their cultural right to construct and live in self-chosen spaces.*

*Jamal objected to accommodating different cultural preferences and providing clusters of housing for different communities. He noted that, having special housing for Sikh, Sunni, Shi'a, etc. is not desirable, since the world is becoming a small village. Instead, we should build one village suitable for all people, not particulars*

*of specific groups. We should live and let live, coexist in peace. The Palestinians are ready to live side by side with Israelis in peace. Providing suitable housing for all, we should build cities for all and not harm the environment, as long as neighbours respect each other.*



Joseph returned to the human rights framework, pointing out that application of the rights requires that we seek equilibrium between individual rights and group rights, in order to arrive at the highest possible degree of justice and fairness. There is always a dilemma involved for individuals fighting for their right without harming others in society. If we abide by law, we have an advantage in that the outcome can be rationalized, even if it does not please everyone 100%.

*Manal shared her experience as a woman of Nubian origin, the villages of which community were submerged by the high dam. "We relocated to Kom Ombo and our houses were not culturally appropriate. We lost our fertile lands. Our resettlement houses were disgusting, so many left. One loss in that process was the distinct culture of the community.*

*Haifa related the cultural question and location of housing to Syria, where there are Muslim and Christian neighborhoods. Part of this is due to some light-sleeping Christians' preference not to be disturbed by the call for prayer, as well as some religious particularities of the two communities.*

*Hanan appreciated multicultural aspects as a great value in society. However, she remarked that we should not segregate and isolate people other and construct ghettos.*

*Fida pointed out that, in order to realize the principle of self-determination, there should be options available to choose.*

*Karam noted that we are speaking of general criteria. We should not abandon our values. We have a lot of problems and dilemmas. We cannot change the general law because we are all of different religions. There is a Human right to housing, and its cultural*

*dimension includes mutual respect for each other and multiple cultures*

*Zinat pointed out the problem in understanding cultural specificity as relativism. Individuality, freedom, self-determination and awareness, as in the New Delhi example, are important. Avoiding the dawn call to prayer is an individual issue. More relevant and serious is the principle that people should not be relocated in areas where they feel isolated or vulnerable.*

Joseph explained that, when we define the elements of a right, as in the authoritative form of a General Comment, we are always speaking of a balance between developing legal specificity, while providing guidelines that are general enough to be applied everywhere. In certain situations, the guidance on particular elements of the right will be more relevant than others. In applying the elements as a monitoring guide, we also find out that certain situations call for an emphasis on issues not fully addressed in the GC. These may involve rights not yet codified in law, but still popularly claimed. The aspect of land as a right necessary to the realization of the right to adequate housing is one example.

When monitoring with the framework of these elements, we also find it necessary to draw on other rights recognized independently of HRAH, including rights found in ICCPR. By way of example, the right to information (ICCPR, Article 19) is essential to realizing HRAH. Citizens should be aware in advance of projects and programs affecting them, including financial-assistance facilities. In order for communities to achieve an adequate level of self-determination and make sound choices, they must have the capacity to do so. In that sense, the right to information is linked to the right to education, as well as to Amartya Sen's concept of capacity building as an entitlement.

Participation and self-expression are individual rights enshrined in ICCPR. We can realize our rights only if we know them and can express them. Security of person is a human right that is especially important to women, and especially in the home.

Through HIC-HLRN's global experience at monitoring HRAH, a technical team of its members from several countries joined forces to develop further the framework for monitoring HRAH so that it could be used in all conceivable situations and guide us toward a more-comprehensive methodology in this profession. Therefore, at the very base of the methodology, we have expanded the elements of HRAH to include the following:



<b>1. Security of tenure, freedom from dispossession</b>
<b>2. Public goods &amp; services</b>
<b>3. Environmental goods &amp; services (water, land)</b>
<b>4. Affordability (finance)</b>
<b>5. Habitability</b>
<b>6. Accessibility (physical)</b>
<b>7. Location</b>
<b>8. Cultural appropriateness</b>
<b>9. Information (capacity &amp; capacity building)</b>
<b>10. Participation and self-expression</b>
<b>11. Resettlement &amp; movement</b>
<b>12. Security (physical) and Privacy</b>

All 12 elements are grounded in international law and, therefore, possess a legal authority to claim the corresponding State obligation to uphold each of these values in order to respect, defend, promote and fulfil HRAH. (The legal basis of the 12 elements is found in the document “12 Elements of HRAH,” excerpted from the *HIC-HLRN Housing and Land Rights Toolkit*.) No matter if our case is personal, local, national, or international in scope; and no matter if we are seeking to influence policy and legislation, or affect and influence public opinion, or obtain compensation for victims, we need to build a moral argument and back it by legal authority from the texts.

The third pillar of our monitoring task is to gather reliable data. We will explore that soon, when we enter into the implementation process.

*Maged reflected that we have been talking about 12 elements that are applicable at any level and used as general criteria, including a legal reference. If it is legal a term of reference, it should also be a moral term of reference. However, the elements cannot be applied to Palestinians and their population transfer. If we looked into the philosophy of progressive realization of rights, the implementation of 12 elements is suitable. However, if we consider the farmers of Egypt since 1996, the State promised to provide land, but the farmers were forcibly evicted without their replacement lands. Therefore, we cannot apply 12 elements to all problems, because they are not binding.*

Joseph thanked Maged for exemplifying the moral origins of HR, developed on the basis of years of suffering. If there is a human rights law principle, it is almost always linked to a moral argument at its base. UDHR is one of moral reference and expression of

political will, but the principles of treaty law are binding and are supposed to be enforceable.

*Jamal spoke of relocation of people in case of war or natural disasters, where often government authorities set up camps. Regardless of the country or the nationality of the migrant, there should be rights pertaining to those vulnerable displaced persons.*

While the element of “resettlement and movement” (element no. 11 in the Toolkit) addresses those vulnerable to, or victims of natural disasters, Joseph pointed out that exile is a different issue. You will find that not all 12 elements should be applied in all situations. For example, in the case of inheritance of the home or land, we would not need to apply all 12 elements to make the case. The complete list of elements is there as a reference, so that we do not overlook any aspect and leave out something important. However, it is the fact of being human that qualifies a person for respect, protection and fulfilment her human right to adequate housing, even in situations of migration for any reason.

In response to questions about additional elements, Joseph explained that HIC -HLRN previously had set out 21 elements, in order to be thorough. However, in actual application, a lot of overlapping and duplication emerged, plus the long list was difficult for users to comprehend. Therefore, we have been trying to cluster the most compatible elements for simplicity’s sake, but remaining careful not to diminish any other elements. For example, “access to environmental resources must emphasize rights to land and water, as well as the right to a safe and healthy environment”).

In conclusion, while the elements of HRAH offer a comprehensive definition, they also form the basis of HRAH monitoring methodology. We will find later in the consultation that applying the elements selectively, depending on the situation, will allow us to direct our inquiry into the issues involved and the values at stake in each case.

## **Session II: “Unpacking” and Applying the Right to Adequate Housing and Gender**

### **Nondiscrimination and gender equality in the right to adequate housing**

*Miloon Kothari*

Miloon Kothari opened the session with reference to one of his earlier reports that took into account local and national experiences and proposed a comprehensive definition of what is HRAH as:

the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity.<sup>5</sup>

Women’s rights to adequate housing and land are not possible without certain conditions. General Comment No. 4 provides us with seven elements, and HIC-HLRN’s further elaboration has filled the need for additional attention to other congruent rights. For our purposes, we need to look at each of these with women’s access in mind. By applying the over-riding principles, we are challenged to determine for each element and congruent right whether or not there is a gender-discrimination factor.

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<sup>5</sup> E/CN.4/2001/51, para.8. The SRAH noted during the consultations that this definition of housing is evolving. The CRC Committee has recommended that the term ‘safety’ be added to the definition. Participants at the consultations requested that a reference to the elderly also be added. Also note that the CESCR Committee has recognized right of elderly to housing in its General Comment No. 6

Miloon explored the participants' understanding of nondiscrimination. While there may be more than one kind, he posed a question about the distinction between direct and indirect discrimination. Participants identified the following real-life examples:

- *Women find job opportunities at lower salaries and benefits than men;*
- *Social mentality has men thinking, it is justifiable to prevent a woman from working, preventing her financial independence;*
- *A woman is abandoned or divorced, lives alone and is ostracized by society, her own family impedes her from playing a role as a full and independent member of society;*
- *Constitution and law omit the rights of women, or some laws need to be updated*
- *Appropriate existing law lacks implementation;*
- *The absence of the rule of law, whereas social practices prevail and progress too slowly;*
  
- *Some laws are good and well founded, but society is actively against it;*
- *Civil society has a role in acknowledging and ensuring the respect of good law.*

Miloon explained that gender-neutral laws do not stipulate specific measures to be taken and, therefore, are not enough to ensure that women's rights are fulfilled.

#### **Over-riding principles of HRAH application**

Self-determination

Nondiscrimination

Gender equality

Rule of law

International cooperation

Progressive realization/nonretrogression

Gender-aware implementation is very important in all cases, as is human rights education in improving social practices. Then he turned to the concept of structural discrimination, gathering a sense of the collective understanding of what constitutes structural forms of discrimination against women.

*Participants responded by addressing “structural” as synonymous with patriarchal, in the sense that the husband has the upper hand over his wife; no matter how well educated she is, she is not as powerful as him. Therefore, the distribution of roles between men and women can be a kind of structural discrimination. Discussion raised the following examples:*

- *Women face a kind of double oppression, with structural discrimination at work and home. If a woman wants a loan, someone—usually a male—has to guarantee that loan.*
- *Distributing the land 90% to men and 10% to women is a form of structural discrimination.*
- *After the father's death, priority in inheritance goes to the eldest son, not to the daughter, that is absolute discrimination.*
- *Structural means certain institutions impose unequal treatment; the discrimination is built into the functioning.*
- *Structural discrimination has to do with the structure of men and women, her lack of political participation and representation is unacceptable.*

Miloon explained that there are two dimensions of structural discrimination: (1) marginalization of women in society, patriarchy and institutionalization; and (2) poverty. If people are poor, it's a structural feature that affects all of society. Women usually bear a heavier burden from that, especially given the dual layers of discrimination inherent in gender and poverty.

Miloon asked participants how they understand historical discrimination, and whether the legal texts themselves discriminatory?

*Jamal observed that, in the purely traditional sense, women have been respected, but without laws enacted to uphold their equality. Women were perceived as queens, "protected" from the outside world. They didn't work outside the house, and they had full authority. However, shifting customs, traditions, norms, and all religions pulled people to different directions. Islam gave women rights, but all regimes, for example, capitalism and communism, etc. forced women out of house to work. Now they earn salaries, but they still face oppression. She takes care of home chores, works outside, participates, and contributes financially to house. However, she lives the combined disadvantages of both the traditional and the nontraditional worlds.*

*Zinat found two main points in structural marginalization as historical practice by society, which encompasses a lot of what already was said, but also with the result of poverty, which economic aspect is simultaneous with the social one. Some wealthy societies also still gender discrimination. This suggests that these aspects are related and that economic advantage is among the motives for discrimination. This is distinct from citing poverty as a general structural deficiency.*

*Participants also identified both poverty and lack of access to services as contributing to discrimination against women in a*

*vicious cycle. Miloon asked participants to identify from experience forms of historic discrimination, which elicited the following observations:*

- *Historical discrimination is rooted in the notion that, by nature, men are protectors and women nurturers.*
- *Historically women give away the right to men to protect them and do many things for them, as if she cannot do it on her own. Women are also to be blamed, because they seek their own marginalization in some ways.*
- *Religion-based discrimination is not a problem, it's a legacy. The Morocco Personal Status Law is completely different from Egypt's, although we apply the same shari'a. Interpretation of religion is the problem in so far as it produces ad hoc, unpredictable and inconsistent outcomes..*

Miloon pointed the ways that historical discrimination derives from colonialism, foreign forces, income-distribution patterns, racism of long standing. Another form of discrimination is intersectional discrimination, or multiple discrimination. This arises when there is discrimination for other reasons other than just being a woman. Miloon asked the participants to comment on their understanding and examples of intersectional/multiple discrimination:

- A woman under occupation (Palestine, Iraq, Western Sahara);
- Being a woman and a member of visible minority;.
- A woman in poverty;
- Poor woman in some Arab countries who have no voting rights, high illiteracy, etc.

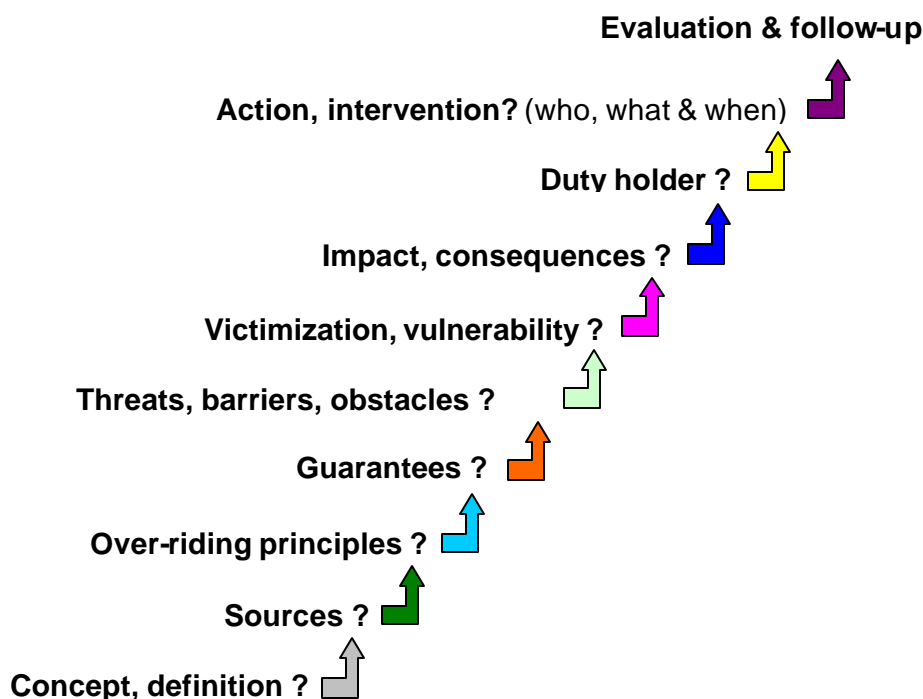
From his research findings so far, Miloon enumerated categories of particular groups of women who require special attention for reasons of their added vulnerability and the multiple discrimination practiced against them. These include: widows, impoverished women, AIDS-affected women, elderly. In 2003, the UN Commission on Human Rights unanimously adopted resolution 2003/22, including with the support of countries in the Arab States. It addressed discrimination against women in land and property as a violation of human rights. This resolution is important as an indicator that governments support the transformation of customs and traditions to comply with human rights criteria. Resolutions based on findings of the SR's ongoing study recognize that there is a gap between recognition of rights in law and its implementation. There is greater recognition of the bias in the judiciary, and that laws are male-oriented. Women face discrimination in access to legal remedies (lawyers) and credit, and lack awareness of their human rights. Concerning accessibility to adequate housing, for example, women often face

discrimination on the basis on their marital status. Under each element/entitlement of HRAH, we need to understand how women face discrimination.

### Contextualising the Tool Kit and Loss Matrix in a Gender Perspective

Joseph explained that the task before the group remains to apply and implement HRAH principles in a systematic method that is designed to help us make our housing rights case. The question for us now is *not* what human rights are. This is already clear in the moral and legal senses. We have identified several experiences common across the region, and beyond, involving segregation, discrimination, issues of equality. Rather, the question for us now is *how* we can monitor these principles so that we can use them to build and explain our case.

This methodology is based on the three basic pillars (already discussed): moral argument, legal authority and data collection. Now that we have the first two pillars, these theoretical bits guide the monitoring activity, which is the prerequisite to action. Our monitoring process consists of a series of steps, beginning with the concepts and legal sources we already have identified. The whole process will look like the following:



We have identified the concepts that provide us with the definition of the right (step 1). Moreover, we have reviewed the sources of the concepts in law, as well as the moral claims to rights arising from social movements and particular situations of deprivation where the law is silent until now. As in the case of Palestine, Kurdistan, Western Sahara, Tibet and other indigenous peoples, the right to land is claimed as a human need and right in popular sources. In such cases, we might also refer to the popular claims to certain rights, in order to fill out the concept further, at least until we succeed in having the element or right codified in law (step 2).

In the case of step 3, we already have identified the over-riding principles in international human rights law. These are common to the preamble and first three articles of all the human rights covenants and conventions. As monitors, we need to engage in the inquiry that will determine whether the over-riding principles are applied. As already mentioned, ICESCR Article 2 stipulates the international dimension of State obligations to respect, defend and fulfill ESCR, as well as the duty to ensure progressive realization/ nonretrogression. Thus, we have six over-riding principles to keep in mind:

1. Self-determination
2. Nondiscrimination
3. Gender equality
4. Rule of law
5. International cooperation
6. Progressive realization/Nonregressivity

*In response to a question as to why the over-riding principles did not also include indivisibility of rights, Joseph explained that this methodology incorporates that principle already in the identification of the congruent rights in addition to the elements of adequacy found in the General Comment 4. These include the rights to participation, information and security of person among the main 12 elements. Without repeating too much, we need to recognize that “indivisibility of rights” is also important.*

As the next step in the monitoring methodology, the group addressed the question of “what guarantees the right?” Turning to the various guarantees in place to ensure that the right is recognized and implemented, they first identified legal guarantees:

- **Ratification or commitment to ratify/accede to international Covenants and Conventions**
- **Enactment or amendment of local laws to comply with international agreements**

Joseph asked that the participants to order their list of guarantees from the most general to the most specific. As we have seen, the human rights treaties embody very broad and general principles, thus relying on the local application to provide the needed



specificity. If we consider the legal system as a form of guarantee, the treaty commitments form the most general such guarantee. Next in our consideration comes the question whether or not the Constitution provides explicit guarantees of HRAH and gender equality.

According to the legal theory, laws at all levels are supposed to be harmonized. However, if a constitution does not recognize a specific right, the treaty obligations of the State may provide an opportunity to fill that gap, or balance any contradictory legislation with a broad commitment to implement the right. In Egypt, for example, Article 151 of the Constitution recognizes the application of treaty commitments as local law. Theoretically, then one can invoke treaty law in local court. Further, if there is legal disharmony with the treaty obligations, the legislation must be amended.

Similarly, public policies are supposed to operate in harmony with the law and with the specific human rights and other treaty obligations of the State. The government bears the obligation to monitor and intervene, in order to regulate actors and practices consistent with human rights provisions. This forms an area when civil society plays an important role in scrutinizing policy formulation and implementation.

Specialized institutions may also guarantee certain rights. These may be public or private institutions contributing to the realization of women's human right to adequate housing and land. They could be binding institutions, serving a specific community, or bonding institutions, operating across society and bringing diverse sectors together.

In general, public programs for financing for housing for women and families, or single-mother families could be a guarantee. However, privately run programs by NGO's, endowments or charitable associations also would qualify in the category of programs that guarantee the right. More-specific "projects" may be guarantees of the right on a smaller scale, or in a particular region. Such projects may be innovative "pilots" that may lead to eventual programs of longer duration and wider scope.

At more-practical level are the budgets. The public budget does more to guarantee the implementation of a right than a verbal (i.e., oral or written) commitment alone. Recently, human rights monitors around the world have been accumulating experience at budget analysis in the light of State obligations to uphold human rights as the priority.

With this discussion, the participants considered eight categories of possible guarantees to realize women's human right to adequate housing and land:

1. Ratifications of human rights treaties
2. Constitutional provisions
3. Legislation
4. Institutions (public and private, binding and bonding)
5. Policies
6. Programs
7. Projects
8. Budgets

### **From Abstract Theory to Concrete Reality**

The first four steps in the methodology have been largely theoretical, identifying the anatomy of our expectations. At Step 5, we begin to inquire into the threats, obstacles and other factors negatively affecting implementation. This is where we put the positive guarantees to the test and ask about any contradictions or violations of the guaranteed rights.

Determining the threats and obstacles to the right might involve identifying gaps or contradictions in the law, or between the local law and constitutional or human rights treaty provisions. You may find, as already expressed, that the law may be sound, but the enforcement may be lacking. It may be possible to find that an unwritten code of conduct within society may ensure family solidarity, but that same "institution" may allow someone's housing and land rights to be violated. Another discovery could be that the national budget for housing support and the government's market regulation efforts have decreased due to external forces of economic globalization. We must keep these contradictions in mind when we come to identify the duty holders later.

The next task, Step 6, is to determine and characterize the victims and vulnerable groups who bear the brunt of the obstacles and threats. If there is failure to guarantee the right, there must be humans affected. While we try to focus on the victim in human rights monitoring, we try to give as much specific information as possible concerning the numbers, ages, social segment of the affected persons. It is important also to give a background about them, since it might be relevant to point out any previous events or historic discrimination.

In characterizing the affected persons, we also distinguish between the victim and the vulnerable persons. The victim is the one who already has undergone a violation or deprivation. The vulnerable one risks a future violation or deprivation. This distinction is important in at least one sense: it determines whether

our problem-solving intervention is going to be remedial or preventive in nature.

*Jamal pointed out that children are naturally always included among the vulnerable groups, since they are powerless to protect their own rights. Within a victimized group, the children among them could be considered both vulnerable and victim at the same time.*

*Asma interjected that, while all need protection, the victim also needs rehabilitation.*

Joseph concluded that, through our intervention, the victims always will have to be helped. We need to contribute so as to help bring justice to the victims. If our interventions are realistic, then we can reduce the numbers of vulnerable people and reduce the numbers and gravity of victimization in the future. The distinction between vulnerable and victim is a subtle but strategic one, affecting how we conduct ourselves in response to the situation.

*Asma noted that, to violations such as FGM, any girl is vulnerable. In housing rights, a divorcee usually is a victim who did not obtain her due rights, but sometimes a woman is married, in dark circumstances and illiterate. She is, therefore, vulnerable to violation.*

Joseph responded with the strategic question as to what kind of intervention can be undertaken.

*Asma offered that, for example, we can raise her awareness of her human rights, show her how to obtain her rights and get a job to be financially independent. That is before the potential violations take place.*

Joseph proceeded to the next logical monitoring step and noted that, for each victim or vulnerable person, there are documentable consequences. This is the point where data collection is required to be as complete, specific and accurate as possible. It is our challenge, therefore, to measure the depth of suffering and loss. It is not enough to know that a woman living in a house was dispossessed when a bulldozer came and demolished her house. Of course, she' has become homeless. She may be a widow. There are lots of losses, both moral and material. Reporting on the victims is not just an emotional exercise. In order for us to achieve the most possible results in making our case, we are developing a methodology to help evaluate such losses as effectively and thoroughly as possible.

*Adella remarked how this actually related to her work, citing the example of houses demolished in the Naqab (the region that is now part of southern Israel). The family was financially strong, the*

*woman was educated, the husband wealthy, but when the house was demolished, they became vulnerable, because their financial situation deteriorated a lot. She couldn't work, and he was emotionally distraught. Adella added that, in such cases, women usually produce saleable handicrafts from home. When home is demolished their contribution to the livelihood is also destroyed.*

Joseph posed the question of how to measure those losses and, particularly, what can we say about those losses, say, after six months, or after a year. Do they accumulate?

The losses may be material and financial, or social and nonmaterial. If we do our monitoring job, the fieldwork required to capture all the losses means maintaining a long-term relationship with the victims. Only if we have detailed evidence and documented proof can we pursue efforts of prosecution, sue for restitution and recuperation of full damages, or tell the whole story to the public.

*Discussion turned to the case of information on house demolitions in Palestine, whereby conflicting data arising from different organizations leaves the public and even UN bodies unable to report or respond. This example dramatized the need for a common methodology that is consistent and thorough in reporting losses. Abla Abdulhadi confirmed this from her experience working at the Office of the High Commissioner for Human Rights, in Geneva, where conflicting reports of numbers and damages from demolitions in Rafah (Gaza Strip, Palestine) made it impossible to trust any single source and report the specifics of the violations. Zinat observed that we, as monitors, should not underestimate small details that could change the whole picture.*

Joseph emphasized the need for monitors to integrate efforts and build on the experiences of others in the field. Similar forced evictions and house demolitions, including on a grand scale, are experienced in Indonesia, Philippines and elsewhere. We can tap the rich experience of monitoring the losses there to discover ways of collecting concrete and thorough statistics. Once we have done that, then we can move to the next stage: identification of those responsible.

*The discussion revolved around the question of the duty holder and, in particular, the role of State and government as the legal personalities obliged to implement human rights. Whereas the State ratifies or accedes to a human rights treaty, it is the successive governments that are charged with implementing those duties. The group discussion formed consensus around the clear and unequivocal position that the State and government should be held responsible for ensuring the human right to housing. In the hypothetical case of a divorced or widowed women forced out of the family home by her mother-in-law, for example, the response*

*was the same. The discussion confirmed that protecting women's housing rights against any violator is a State responsibility.*

*Zinat and Haifa explained that the State and government includes the judiciary and legal system, which should stipulate in law how to respond to these cases. However, the mother-in-law or even an international organization guilty of the violation also bears responsibility. It is nonetheless, the State's role to uphold the rights of the inhabitants. Karam differentiated between the agents responsible at the formal (governmental) and informal level. The government is the common agency in all cases, but there might be others at an informal level. Hanan saw a responsibility also for the UN at an international level to ensure that people are protected in cases where governments fail, or are the violator.*

Joseph carried the discussion to identify various actors, including international financial institutions, multinational corporations, community actors, private-sector parties and others who may be the actual violator. The many levels of potential responsibility are clear in many cases being brought out in our daily work and in the testimonies to be presented in the consultation. However, when we speak of human rights obligations and the principal duty holder, we turn to the State as the guarantor of the rights. This provides us with the international public law definition of the duty holder.

Once we have identified all of the foregoing—the content (elements) of the right, its legal and popular grounding, its guarantees, the obstacles, affected parties, the various consequences and, finally the duty holder—we are in the position to mount the final step in our methodological approach. This, naturally, is the action or intervention of our choice.

In order to make a strategic choice, this is the stage at which we determine our options by assessing our strengths, weaknesses, opportunities and threats. These are the strategic-planning criteria that allow us to make an informed choice of actions that we can control or predict and, as much as possible, reach a desired outcome.

### **Concluding remarks**

Throughout the course of the day, we have explored the steps of the methodology of monitoring the human right to housing. The goal has been to reach a point beyond simply identifying a violation.

It may be very instinctive for us to see the moral values breached in an eviction, house demolition, confiscation, denial of equitable inheritance or some form of inadequate housing conditions. However, to call it a violation, we need to use the law as a

standard, as a tool. Simply to call it a violation may not be very compelling to your audience, whether that be the general public or a judge on the bench, unless we accurately can tell what measure of the various values are lost.

As human rights monitors, we speak and act for and with the victims—but also with them—in articulating their short-term and long-term losses. The task, therefore, calls for an ongoing relationship with the victims. In our methodology, we seek to reach a point beyond the identification of the mere violation, but to take the duty holders to account, again using the normative grounding of international human rights treaty law. Only then can we pursue remedies strategically chosen from a menu of potential actions.

These logical steps form for us the anatomy of our profession as human rights monitors. It is with these steps that we will apply the framework for making the case in the testimonies to be presented to the Special Rapporteur and, eventually, for the report he will present to the UN Commission on Human Rights.

The ultimate purpose of this exercise, of course, is to influence policies and bring about positive changes, to advance human rights and, thereby, human civilization. Therefore, we are following the message of human rights that we began with to realize and use human rights as:

1. a common heritage of humankind
2. a common language among peoples and states
3. means to defend ourselves and others from harm,  
and
4. tools to build a better community, society and world.

## Day Two, 24 July 2004

### **Session III: Applying the Framework**

#### **The link between violence against women (VAW) and violations of women's human right to adequate housing**

*Cecilia Möller*

The purpose of this session is to explore the relationship between violations of HRAH and violence against women (VAW). In doing so, we will draw on the information provided through the mandate of another human rights mechanism of the UN Commission on Human Rights, the Special Rapporteur on violence against women. By way of grounding our discussion in the available legal authority, we draw also upon the definition of gender-based violence arising from the UN Committee on the Elimination of All Forms of Violence against Women (CEDAW) in its General Recommendation No. 19.

Cecilia asked the participants to characterize the links between VAW and HRAH, using the elements discussed yesterday. The discussion drew out elements that would be affected in the case of domestic violence:

- The home as a healthy environment and a place for private sentiments;
- Adequate housing provides physical and moral support, as well as shelter;

- The home should maintain health and dignity, where one can practice social and cultural life;
- Housing is appropriate if it is compatible with health and the environment;
- The home embodies the fundamental right to protection, stability, personal security and freedom;
- The home provides privacy and safety.

Violence against women negates much of the concept of adequate housing as summarized in the definition that the Special Rapporteur has provided:

the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity.

Traditionally, violence against women has been seen through the lens of civil and political rights; that is, narrowly defined as a violation of the right to security of person. However, violations of a woman's right to adequate housing increase the risks of domestic violence and involve other types of violence as well. Inadequate housing can contribute as a root cause of, a consequence of, and/or an obstacle leading to VAW. We will see how violations of adequate housing and particular forms of violence against women often coincide.

This link is most visible in cases where a woman is evicted and homeless, thereby also facing an increased risk of abuse and violence in street. The link is obvious also in the case of domestic violence that leads to the loss of housing. However, in less obvious ways, inadequate domestic living conditions can become factors that contribute to VAW. For example, degraded housing conditions, overcrowding, lack of access to water, a lack of privacy, the general absence of security, an unsafe environment, armed conflicts all contribute to instances of VAW. Cecilia asked the participants to identify other linkages.

*Maha raised the context of so-called development that is imposed by force. The resulting violence, in the form of house demolition or forced eviction without adequate alternatives, is carried out in the name of development against women guardians of the home. Development can degrade the environment in such a way as to deprive her of her basic needs.*



### **CEDAW General Recommendation No. 19: Gender-based Violence**

Violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favorable conditions of work.

8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention.

9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

*Abla posed the scenario of housing conditions that lead to violence. In extreme cases, denial of inheritance in Jordan has taken violent forms. In one example, upon a father's death, the brothers killed their sister and make it look like an honor crime so they can take her inheritance*

*Hana recounted experiences from Lebanon where domestic violence typically arises from three causes: (1) early marriage of girls, particularly when the mothers cannot support family when husband is disabled or has died; (2) in cases of the man being unemployed, men's frustration is projected on women; and (3) forced or economic migration, as well as general economic deprivation, leads to feelings of estrangement and loss, causing psychological violence, particularly when coupled with the tendency toward extreme religious thinking.*

*Karam noted that VAW, by definition, entails any kind of abuse, both psychological and physical abuse. Housing is supposed to be a stable place for ensuring good life; however, we see a close link between instances of abuse and poor housing conditions. There is less domestic and social violence where more favorable housing conditions prevail. A woman forced out into the streets constitutes also a form of psychological abuse.*

Cecilia cited findings from Western countries, indicating that 30% of homeless women in the United States, for example, are also victims of domestic violence.

*Haifa observed that domestic laws also contribute to VAW. For example, where so-called honor crimes are not penalized, it becomes socially accepted to commit the ultimate violence against a woman. We find a kind of backdoor conspiracy against women, and we need more severe penalties for VAW, as in the case of FGM, inheritance violations and honor killing.*

*Nagla noted that laws do not give women their rights, because the law-making process is essentially male dominated. In our society, women need to work to enact laws affecting them, whether concerning prostitution, unemployment, and privatization of the public sector. Women try to support families in the face of all economic diversity and faulty policy making. Women in develop countries find themselves subject to violence in home, as well as on the outside as soon as they leave the home.*

In hypothesizing some scenarios that exemplified the linkages between VAW and HRAH, Cecilia spoke of women as “soft targets” of forced evictions, facing a higher risk to abuse. Abused women usually will not take steps to leave the house, because there is no alternative available. Women control their actions for fear of eviction. Domestic workers live in cupboards, bathrooms, closets, etc., and face a constant lack of privacy and risk of

violence. VAW, in Kenya, is related to inheritance and “cleansing,” which is a customary practice in the case of a husband’s death, the widow is forced to be “cleansed” of him by having sexual relations with a lower class, or social outcast man. This practice is linked to inheritance rights, whereas a “cleansed” woman would have a better chance to receive her rightful inheritance. Conversely, a widow who does not become “cleansed” becomes socially ostracized and loses her inheritance rights.

*Shamaa reported the practice in Jordan, where the widow is not forced out of her house, because that would not be socially acceptable. However, her husband’s family may confine her to the house for years. If the woman is to marry again, the former husband’s family may take her children away.*

*Zinat added the experience of Egypt, where cleansing is also a cultural practice denying the widow her right to remarry in order to make sure that the property and children remain in her (husband’s) family name. In rural areas, women often marry the brother of the late husband in order to keep the property in his family. In order to preserve money and property, a woman can be killed if she tries to remarry.*

*Asma cited misinterpretation of Islam or misunderstanding of the text of the Qur’an that leads to force and violence practiced against women in the home. The capital of Kordovan, in Sudan, has a high literacy rate and an educated population. However, families in poor neighborhoods believe that women should go out of the house for three reasons only: (1) when born, (2) to move to her husband’s house and (3) to go to her grave. These are Muslims who actually believe that they maintain these restrictions because the religion calls on them to do so, but such practice is not found elsewhere in Sudan.*

Violations of HRAH is often sensitive and tricky. It involves the private sphere, society, community, and development. When we think about possible linkages with VAW, Cecilia asked who is responsible?

*Abla reflected that, in the Arab world, privacy is an important issue and right. The home is the most private place. It is an unpopular notion that the authorities should interfere in the home.*

When speaking of the prevailing patterns of VAW, we often refer to a culture of violence. Cecilia asked the participants to identify what contributes to a culture of violence.

*Maha spoke of the experience of foreign occupation as introducing an unprecedented culture of violence. Corruption and the misuse of power in government also lead to a model of antisocial behavior*

*and violence that affects society as a whole and makes violence more acceptable.*

*Joseph remarked that, distinct from some other regions where this consultation has taken place, the Arab world is still partly colonized. The overarching violence arising from the geopolitics of external powers, in particular, is constantly in everyone's mind.*

Cecilia proceeded to outline the UNSR VAW mandate, created 1994 and based on UN Declaration on the Elimination of Violence against Women and CEDAW. This covers “violence that is directed against a woman because she is a woman or that affects women disproportionately. The mandate covers VAW that is physical, sexual, psychological, whether in the public or private spheres.

*Hanan reminded that women, as mothers, also are responsible for raising children in a discriminating way. That treatment by mothers plants the seeds for future behavior.*

*Nagla observed also that violence against women includes verbal abuse, and society must be aware of its impact.*

*Huweida commented that VAW is represented in more than one aspect of military occupation, manifesting in poverty, unemployment, increased discrimination, customary gender-based discrimination, deprivation of the right to choose partners or remarry, deprivation of the rights of girl children. Under occupation, women and children are denied their housing rights.*

Cecilia presented the special contribution of the UNSR on VAW's special points, linking VAW to HRAH. She has observed that inadequate housing leads to violence. The roots may be found in economic hardship, unemployment and other material factors. Women who are economically dependent on family are particularly susceptible to violence. Women may be evicted from their home and forced to live on the streets, or forced to endure living with a violent partner in order to maintain her shelter.

The summary of conclusions from previous consultations with the UNSR on adequate housing has demonstrated also how HRAH and violence are linked. Whereas VAW is used to exert control over women and reinforce their exclusion, inadequate housing conditions and inferior rights make women more vulnerable to violence, creating a vicious cycle. Comprehensive strategies need to be adopted to address all elements of HRAH. Our discussions add to this list to raise other aspects specific to women's rights to housing and land.

*Asma noted that women also can practice violence against each other and themselves.*

*Fida reported that government-sponsored resettlement schemes (carried out by Israel) have forced different rural tribes into inappropriate conditions. Tribes accustomed to living in separate spaces where women had access to those public spaces now are forced to live with strangers under relocation into housing units where women lose their access to public spaces for reasons of safety and security.*

*Muhammad noted another form of violent and discriminatory behavior in his country, whereby (e.g., in Bahrain) the ruling family enjoys special privileges. If a woman member of the ruling family wants to marry a nonroyal, she could lose her rights and be banished to another country. Such practices eliminate rights to housing tenure if a woman breaks the family rules.*

*In another example, Muhammad referred to the Ministry of Housing in Bahrain providing housing units, but possession is granted to men after 25 years of payment. However, if a woman is divorced, she has no right to tenure of that home. The Parliament has proposed a bill that would ensure that, if housing is distributed, that it be registered in the name of both wife and husband.*

*Haifa cited a form of violence practiced by the church. Speaking as a Christian, in the case of her divorce, the church forced her to live ten years alone. These rulings are supposedly in accordance with the Bible, but constitute another form of VAW.*

*Karam observed that, while the definition of VAW from SR helps solve some conceptual problems, the discussion so far does not point out official violence. We are talking about domestic violence. Women are subject to discrimination in education, in Personal Status law, in the workplace. Governments are responsible for protecting women against violence in all these contexts as well.*

*Cecilia remarked that, in covering so many issues, one observation needs to be drawn; that is, that violations of human rights in the public sphere can result in VAW in the private sphere. The lack of secure tenure and poor living conditions also contribute to VAW.*

*Miloon reminded that we often think of the linkage between HRAH and VAW as related to property. However, we need also to think of psychological impacts of violence or indirect forms of violence amounting to psychological harm. It is also important to link this discussion with different forms of historical discrimination that we talked about yesterday, which can end in the institutionalized of violence. We need to think broadly over time and in multiple contexts, in order to arrive at a full understanding of discrimination.*

*On that note, Maha asked if the SR has studied the link between VAW and globalization. Miloon responded with the examples of*

1	2	3	4	5	6	7	8	9	10
Entitlement [concept defined]	Source	Overriding principles	Guarantees	Threats, barriers, obstacles	Victimization vulnerability	Impact, consequences	Duty holder	Action, intervention (what, by whom & when)	Monitoring & Evaluation

*privatization of water that have led to more violence because of greater difficulty in gaining access. Also, the so-called war on terror has created a situation that neglects social needs and encourages more violence. It is important for the purposes of our investigation that we could ask people how they feel their life has been changed by globalization.*

*Joseph referred to the work that the Land Center for Human Rights (Egypt) has done to demonstrate the effects of privatization of land on rural people—and especially women—in Egypt. The Moroccan experience of privatization of water, a public good, also bears heavily on women as they are the ones taking care of the house and providing water.*

## Using the HRAH Framework in Problem-solving Strategies

*Miloon Kothari and Joseph Schechla*

Joseph opened the session on problem-solving by referring back to the previous session on the steps of the monitoring methodology. He began at the point (Step 7) in the Toolkit methodology at which we begin to characterize the consequences of the violation and quantifying the losses and consequences. He noted that an essential step toward selecting and implementing a solution lies in knowing the full impact that is to be addressed.

He took the participants through a brain-storming exercised to identify the categories and details of losses that include:

- Material losses to the direct victims
- Nonmaterial losses to the direct victims
- Materials losses to those other than the direct victims
- Nonmaterial losses to those other than the direct victims, including public costs and social costs.

In measuring the material losses of the direct victims, participants cited:

- Court costs;
- Lost wages;
- Bribery costs;
- Sanitation system;
- Alternative housing;
- Cost of construction;
- Water-purification pumps;
- Destruction of water pipes;
- Electricity and phone cables;
- The price of the plot of land lost;
- Physical injuries inflicted to people;
- Possible human losses (loss of life);
- The money and material invested in the house;
- The difference of higher costs where the inhabitants are ultimately relocated;
- Contents, such as books, furniture, clothes, etc. (by destruction, theft or looting);
- If the inhabitants used to use house for commercial purposes, losses and damages could also include machinery, livestock;
- Cost of education, health, other services (e.g., for alternatives when “development” resettles inhabitants to unserved areas);
- If the inhabitants used to use house for commercial purposes, losses and damages could also include machinery, livestock.

*Maged noted that, in our inventory of consequences affecting women, similar attention should be paid to the consequences affecting children as a special category of victims. Haifa added that the entire family is wrecked in the case of the loss of a home.*

Joseph asked that everyone try to concentrate for a moment just on the material losses especially affecting women. However, in connection with the last observation, it is true that children lose particular values, including perhaps educational opportunities, toys, space to play, their secret spaces.

Joseph posed the two-part question of (1) what losses should we evaluate and (2) how.

*Huweida speculated as to the value of a modest house in Palestine, suggesting that it would be worth some \$50,000 just for the structure, without equipment.*

Joseph pointed out that, if we seek solutions, it is essential to build awareness about the dimensions of the losses and consequences undergone in the case of a housing rights violation. This is true regardless of our public, but especially important if and when we seek compensation. For this we need complete and accurate data. He recounted the experience of applying the HLRN Loss Matrix to five out of the nine homes destroyed in Isawiya village (Jerusalem), on 14 January 2002. HLRN consulted with engineers, workers, neighbors and the home owners to arrive at a composite of costs involved in the construction of the homes. Each was not yet inhabited. The Israeli occupation authorities destroyed each home on the pretext that it was built without a license. These were modest homes. Even without cost of land or any contents, the costs came to \$105,000 to \$115,000. Since there was not hope of compensation in this case, the respondents had no cause for exaggerating the values. All participants in the exercise were surprised at their own findings. What was even more surprising at the time was that no one had ever evaluated the actual values of demolished homes in any systematic way: neither the owners, nor the local NGOs carrying out the monitoring of housing rights.

*Zinat asked about the method for assessing costs, whether by establishing the original purchase price, or at the present-day value. Joseph responded that the methodology HLRN has developed—and which is available on the HLRN website ([www.toolkit.hlrn.org/](http://www.toolkit.hlrn.org/)) recommends that monitors consider the “replacement cost”, particularly if we keep in mind the possible solution of restoring the right and achieving full compensation AND restitution of losses. Therefore, we would use the current cost of replacing the material losses at today’s prices. In the Naqab, for example, a typical practice is to include in the overall calculation the cost of the bulldozer used to carry out the demolition. This is particularly because, in those cases, the Israeli authorities estimate the cost and fine the home owner for this service if s/he does not carry out a court-ordered demolition at his/her own expense. Typically, this cost/fine is billed at the equivalent of \$1,500.*

*Maha added that, in the Naqab, if a person refuses to destroy the house her/himself, and if s/he refuses to pay the fine, the owner is imprisoned.*

Joseph reminded participants of the importance of assessing the costs and losses accumulated over time. Keeping that in mind, he asked the participants to identify the nonmaterial consequences that, although difficult to quantify, nonetheless can be devastating.



The participants identified several nonmaterial categories of loss based on their observations and experience, including:

- Identity;
- The loss of intimacy of the living place;
- Dignity lost from humiliating treatment of women;
- The estrangement of feeling like an expatriate in your own country;
- Loss of social standing, degrading from home owner to homeless person;
- Loss of inheritance (with long-term consequences for succeeding generations);
- Failure of children at school due to the trauma of home loss or poor housing conditions not conducive to study;
- The personal crisis that some women face that leaves them no choice but to resort to prostitution, with all of its attending consequences;
- Damaged relations between parents as a byproduct of the stress of poor housing conditions or losses, sometimes resulting in violence also against the children;
- Moral damage, nervousness, tension, psychological trauma and neurological diseases that could result from being deprived of secure tenure and, eventually the actual shelter.

Turning then to the material costs or losses to those other than the direct victims, the participants focused on examples arising from forced eviction and displacement. These included public costs, such as:

- Compensation to victims at the public's expense;
- The price and use of bulldozers (used to demolish, but not to build);
- Costs of lawyers, judges and public facilities used to issue eviction orders;
- Costs to the public with a victim's petition or protest action in or out of court;
- Law enforcement personnel and equipment used to exercise force in an eviction.

When Joseph asked about the nonmaterial costs and consequences to those other than the direct victim, including what could be considered the social and political costs, the participants identified the following:

- Fueling animosity within society;
- Youth traumatized and dropping out of school;

- Loss of legitimacy of the government and its authorities;
- Preemptive abuse by police of inhabitants leading up to an eviction;
- Breeding thoughts of revenge in the minds of witnesses, including children;
- Social conflict arising when some displaced families invaded or are resettled on others' lands;
- Soldiers left traumatized by the experience of carrying out home destructions under order from superiors;
- Social damage, rebellion by victims and their neighbors angry and using violence to repel the police or other forces who carry out evictions and demolitions.

Joseph suggested that this exercise needs to be applied for our purposes to the particular categories of loss suffered by women. In using the Loss Matrix along with the monitoring steps we have explored, we should not forget the direct and indirect damages and concerns not only of the obvious direct victims, but also others. We should think of women's special position in those categories. This would not only apply in the case of a dramatic violation such as eviction, demolition or confiscation of the home, but also in such cases as deprivation of right to inheritance. In any case of a violation of women's rights, and particularly when there is a lack of support from communities, we need to think with a broad scope in order to capture the full picture of losses in order to pose our solutions.

Miloon addressed the participants, reminding them to keep in mind the scope of the problems to be addressed. He took them to the next stage of choosing interventions in order to counter the losses. When the SR asked the group what are the different responses available, they offered the following list:

- Filing court petitions;
- Documenting atrocities;
- Peaceful public demonstrations;
- Human rights education in general;
- Trainings for human rights workers;
- Mobilize and organize communities;
- Be sure to involve victims in all strategies;
- Using the media to build awareness of society;
- Issue complaints to responsible public officials;
- Presenting your case to the UN human rights bodies;
- Hold negotiations between inhabitants and relevant institutions;

- Disseminate findings among parliamentarians, relevant ministries;
- Provide legal assistance and awareness raising about citizens' legal rights;
- Using IT-based strategies to disseminate information and pose technical solutions;
- Build databases that can monitor, calculate and demonstrate all relevant information ;
- Establish and build capacity of local associations to defend women and children rights;
- Work with sheikh to talk about rights of women to inheritance (in Islam, as distinct from social practice);
- Provide documentary material to planning institutions and relevant ministries to review the issues and policies;
- Inform European NGOs and ask them to pressure their governments to ensure housing rights of women are respected in our country;
- Law reform movements and campaigns to harmonize national legislation and enforcement with international human rights obligations;
- To reach highest level of community empowerment, provide people with confidence in themselves and basic facilities so that they stay on their lands.

Miloon advised that seeking a solution and an appropriate intervention from a human rights perspective requires maintaining a focus on the duty holder. We have to propose solutions on how to render States accountable for their obligations. He turned the participants' attention to the final document in the dossier of materials: a compilation of strategies used around the world to defend and restore the human right to adequate housing and land. One possible exercise for choosing an appropriate intervention is to write down the type of actions that you undertake in your org, focusing on duty holders. What are the obstacles that you feel in your work and how can you overcome them with the resources available.

An effective approach for selecting an action is to carry out an assessment using strategic planning criteria. For that, one undertakes a thorough assessment of your strength and weaknesses; that is what assets and liabilities you currently hold. Then one determines the opportunities and threats one faces; that is, what probable events can one predict for the future.

In the strategic-planning process, one tries to emphasize the strengths and turn weaknesses into opportunities. For example, if the community is unaware of its rights to adequate housing and

land, then that poses an opportunity to provide human rights education and training so as to transform that weakness into a new reality. Facing the threat of eviction or repressive new legislation may find you isolated from the wider community of experienced organizations dealing with such threats. In that case, the urgent needs of the situation lead one to seek new opportunities for networking that, in turn, will provide new strengths for confronting potential threats in the future.

Among the available opportunities is one that we are posing in this consultation: cooperation with UN human rights mechanisms. In this case, the mechanism of the UN Special Rapporteur on adequate housing serves as a channel for international solidarity, access to the UN Commission on Human Rights and potential cooperation with other bodies of the UN human rights system, even if the occasion of traveling to Geneva does not present itself.

## **Using the UN Human Rights Mechanisms: Overview of the UNSR (right to) Adequate Housing's Mandate and Reports**

### **UN Special Rapporteur on adequate housing: mandate and reporting**

*Miloon Kothari*

The Commission on Human Rights began appointing SRs on economic, social and cultural rights only in 1998. The SR on adequate housing was appointed by resolution of the Commission in 2000. The wording of the SRAH's mandate provided the opportunity to interpret the mandate very broadly. By working within a human rights approach the SR on adequate housing has focused on the indivisibility of all human rights. This enables him to explore elements of HRAH as it intersects with other human rights (e.g. rights to water, safe environment, security of home and person, etc.). For instance, the notion of indivisibility has enabled the SR to explore the very strong link between VAW and HRAH, particularly emphasizing the right to security in the home, participation, security of the person and freedom of movement.

The SR grounds his work in the legal framework of the right, which includes:

- UDHR, Article 25.1 ;
- ICESCR, Article 11.1 ;
- ICERD, Article 5 (e) (iii)ç
- CRC, Articles 16.1 and 27.3;
- CEDAW, Articles 14.2 (h) and 16.1(h);

- The Habitat II Agenda (1996, Istanbul).

As nondiscrimination is an important, overarching principle that applies to HRAH it is important to note that:

- CEDAW Article 14(2) refers to nondiscrimination against rural women in the context of their right to housing;
- CRC Articles 16 (1)/27(3) address both housing rights and freedom from violence for children, including the girl child.
- CERD Article 5(e) (iii) addresses nondiscrimination in housing, which has enabled the CERD treaty-monitoring body to look specifically at this right. Article 3, which historically was used to condemn apartheid in South Africa, has been very useful for addressing current forms of segregation and discrimination.

There are also components of civil and political rights instruments that are relevant to HRAH and VAW:

- ICCPR provisions on security of the person can be linked to HRAH and VAW;
- CAT Article 16(i), by which the CAT committee found in 2001 that forced evictions are a form of “inhumane and degrading treatment” in the case of Israel, which will be very useful for arguing the link between VAW and HRAH.

The Special Rapporteur, through his reports, has attempted to further clarify the content of HRAH and the nature of State responsibility for fulfilling this right, including articulating what are the immediate obligations of States and what is the core content of the right. For this, the SRAH has found that the following overarching principles as we already have discussed.

Miloon Kothari presented the three main areas of his work as UN Special Rapporteur on adequate housing. On an annual basis, the SR reports to the UN Commission on Human Rights on the various developments in the field of housing rights. In recent years, this has included thematic reports on particular obstacles to the progressive realization of the right, such as the impact of housing rights deprivation on women (2003) and forced evictions (2004). As a complement to the reporting activity is the SR’s investigation work, which involves also country mission two-to-three times each year. Since the SR mandate began in 2000, this has included country visits to Peru, Mexico, Romania, Palestine, Kenya, Afghanistan and Brazil. Reporting on these investigative missions and other investigation includes an analysis and recommendations for government, civil society and international bodies. This also includes communications with governments and other duty holders in the case of urgent situations, especially in cases of forced evictions. The third aspect of the mandate involves dialog with civil society, UN agencies, academic institutions and

treaty bodies. Naturally, this dialog involves a degree of advocacy work, including in the form of press releases and public statements.

In 2002, the UNCHR unanimously adopted Resolution 2002/49 (women's equal ownership of, access to and control over land and equal rights to own property and to adequate housing), which recognized that women face discrimination and violations of their right to housing and land around the world and that there needs to be action at the international and national level. That resolution charged the SR to prepare a special study on women and housing, of which this consultation is an essential part. The first part of the study was issued in a 2003 report (E/CN.4/2003/55). On page 21 of the study are found the overall findings at that stage based on the responses from questionnaires.

The findings revealed two main problems: (1) that women's issues are not recognized in laws and policies, and (2) even where the rights are recognized, there is little implementation. Therefore, the study sets out a challenging course of action to determine ways to have the rights recognized and means by which to have them implemented.

### **Women and Adequate Housing Report 2005**

The SRAH submitted his preliminary report on women and adequate housing in 2003. In response, the Commission adopted resolution 2003/22, recognizing discrimination against women in the sphere of housing, land and property as a violation of human rights. The resolution then called upon the SR to prepare a second report for 2005. That report is also based on questionnaires, but also builds on consultations, testimonies, and collaboration with civil society.

The main finding was that while there is growing legal recognition of women's right to housing, there is a lack of implementation. Many women cannot afford legal remedies and the impact of global policies is increasingly limiting the fulfillment of women's HRAH. The report highlighted particularly affected groups of women, for whom more information is needed so that specific measures for vulnerable groups can be identified. The list of vulnerable groups is not exhaustive, but includes:

- Widows;
- Elderly women;
- Women with HIV/AIDS;
- Women with disabilities;
- Women-headed households ;
- Women living under occupation;

- Women living in extreme poverty ;
- Women who have been forcibly evicted;
- Women who have faced domestic violence;
- Children (girl-child, street children, orphans);
- Women who have faced ethnic, armed conflict;
- Women from indigenous, minority or descent-based communities.<sup>6</sup>

In 2003, in response to the SRAH's preliminary report on women and adequate housing the Commission adopted another resolution (2003/22) in which they requested the SRAH to submit a second report on women and adequate housing in 2005, and for States and civil society to respond to the SRAH's questionnaire on women and adequate housing.

To prepare for the 2005 report, the SRAH will employ the following strategy:

- Further develop the questionnaire on women and adequate housing and seek State and civil society responses. The questionnaire can also be used by groups to prepare case studies/testimonies, which are also being collated for the report;
- Hold regional consultations with civil society to hear directly from people affected by violations and to gather testimonies;
- Seeking cooperation from treaty bodies.

### **SRAH Questionnaire**

The questionnaire has two main parts:

- Part I: General legal and policy framework
- Part II: Essential elements of the right to adequate housing (RAH)

The legal and policy framework targets:

- National legislation on housing; e.g., constitutional guarantees
- International treaties recognized in domestic law, to which extent they are recognized in the constitution and in the judicial review of laws

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<sup>6</sup> During the consultations participants noted that migrant workers and domestic workers should also be added to this list.

- How formal, customary and traditional institutions provide women equal access to land, finance, civic services, information; i.e., how the laws policies and practices are used.

A strong emphasis is placed on identifying the problems of specific vulnerable groups of women and on identifying positive examples/best practices of what is being done to address the problems.

The second part of the questionnaire focuses on the elements of the right to housing, which have a strong legal basis in international human rights law and are consistent with the elements identified in the Tool Kit. Specific questions are asked for each element.

For example, the section on participation, which refers to how women are part of the decision-making process, asks for examples of both obstacles and good practices. Questions on resettlement, seeks information on displacement, refugees, compensation. The Loss Matrix provides a useful tool for assessing the extent of damage for compensation claims and reporting them in response to the questionnaire. Access to remedies, focuses on the formal and informal legal system; e.g., paralegals; community dispute resolution etc.

Focusing on the elements of HRAH in the questionnaire also means that the questionnaire can be used as a human rights tool as there is an acute need for human rights education among State and non State actors at the community, national and international levels.

The questionnaire (also included in the dossier of Consultation materials) explains HRAH through each element/entitlement, as we have done in this Consultation. The questionnaire has been sent to all governments and many civil society institutions and NGOs. It is found on the OHCHR website at: <http://www.unhcr.ch/housing>.

The questionnaire seeks disaggregated data on housing and land issues as relating to the specific elements of HRAH. It raises questions about existing laws and policies as they relate to these elements in relation to women. It also includes questions about participation and the extent to which women are able to speak out and take part in all levels of activity in housing and resettlement. It sheds light on matters of privacy, inheritance and tenure. One question the questionnaire and research hopes to determine is if a woman has privacy and security, would it reduce incidents of violence?



The questionnaire includes an inquiry into women's access to remedies, education and empowerment, and freedom from violence. Miloon explained that the questionnaire will serve in the exercises on the scenarios later today and for the participants' testimonies tomorrow. He explained also that the participants can use the tool kit in identifying the problems and solutions in their own work, but also to add to the questionnaire anything that they feel is missing. The questionnaire is long and seeks to be as thorough as possible. However, the user should feel free to answer those questions she feels she can identify with, if not every single one. A simplified, summarized version of the questionnaire is also available, which HLRN is translating into Arabic.

Not every government has responded to the questionnaire. The answers eventually will be made available. There have been a few honest responses, but some also do not acknowledge the full scale of problems. Regional consultations with civil society are an important means of collecting direct information regarding women's rights, while not having to rely on the state.

The SR has had contact with NGOs in the region through HLRN. Of course, the SR would prefer more direct contact and the questionnaire will help to organize data and information coming from civil society.

Miloon explained that there are several uses for the questionnaire. His report to the Commission will be based on the questionnaire and will contain recommendations for States. Civil society can use this information in its own work, using the questionnaire to monitor the situation. Through your responses to the questionnaire, the SR carries your voice to UN Commission. When Commission adopts resolution in 2005, it will take into account conclusions of a study. You will be able to use the subsequent report in your own work, in court, before the media, etc.

At present, despite the volumes of reporting, there is not enough information on the impact of housing rights violations on women in Palestine. In the case of Palestinians in Lebanon, for example, one could use the questionnaire to report on the living conditions in the refugee camps, or on national legislation within the criteria of international law. Although the questionnaire was not specific to any particular region, the answers should be specific to your local context. In some cases, governments themselves have not given very detailed responses to questions.

The participants noted that some of the information called for in the questionnaire is not available to the public, particularly on public finance of housing. Allocations and budgets are laid down generally, not by gender. What information the government produces is not always credible and most citizens do not trust it. The SR advised that, if there is no access to such information, it is

important to note that in your report to the SR. In that case, the SR can address the ministries directly and ask for specifics, and the SR can follow up

## **Inheritance rights and violations of women's human right to adequate housing**

*Azza Soliman*

Director general of the Center for Egyptian Women's Legal Assistance, Azza Soliman is a lawyer and specialized in inheritance and women's rights. Leading the discussion on inheritance rights and women's right to adequate housing and land, she noted that, in the Arab countries, we have similarities shared also at the international level in that we all suffer from gender inequality. The tradition dates back to pre-Islamic times. Since the rise of Islam and the liberating movement of rights, good works and justice that came with it, things are actually going backward.

It used to be that society assumed men should be the inheritors, because they are the only ones considered able to protect it. All religion is supposed to work for the good of all people. However, the ones who interpreted religion are the ones who undermined that premise. In all social strata, there is a similar pressure on women. Contrary to the sexist interpretations that were against women's rights to serve men interests, civil laws have been instituted to protect women and give them the right to sue. However, social pressure has prevented them from doing so.

The living conditions of women also have militated against her achieving her rights. As illiterate, impoverished or single mothers, fighting for one's rights is very hard. Everything of value traditionally falls in the name of the husband or male family members. The idea of joint custody is not applied in Egypt, for example. Centers for legal support to help women in litigation are important assets in the struggle for rights, but most women do not know about them. Even if they do, the centers provide them with consultation, but not with support in court.

There is a general lack of awareness among women in our society. We have discovered in our work also that we need to raise the awareness of men, too, because otherwise men can prevent women from practicing their rights. We are still underexperienced in defending women from violations of their rights.

When we met women in Sinai, for example, who find out that they were not entitled to inheritance, they cannot go to the police. They can be—and often are—beaten, or their children are beaten. We

have to work on all these aspects at one time. Women sometimes ask for inheritance, but cannot continue the claim in the face of such threats and physical violence. Typically, she has to get permission just to sell jewelry or cut her hair, so imagine what she has to go through to acquire her rights to a plot of land!

She cannot sell it without permission from her husband, or uncle, or other male relative. If her husband has financial problems, she may like to sell her land to help. However, the father or brothers are there to exercise their right of refusal. So, even if she has the land, she cannot dispose of it as she sees fit.

Knowledge is of key importance. Sometimes the amount of money or property inheritance is agreed on before she divorces, but she needs to know how to obtain those rights. She also needs to have the children aware of how to obtain the mother's inheritance if she dies. The case of the widow is like that of the divorcee, but more acute for the widow. She is typically prevented from remarriage, or she will lose her house and will not receive any inheritance from her husband. She therefore remains very vulnerable. If a divorcee has no children, she is likely to be kicked out of her home without an alternative house.

Lawyers hear about a lot of tragedy in this field. They know that the women will not claim any right, because of ignorance or other pressure against her. When psychologists study women's feelings in these situations, they see the great impact on children. In this way, we are experiencing a regression of social conditions and rights where families use religion to protect their interests. In case of mothers or handicapped women, or economic crises, women often sacrifice and give up their rights. The feelings of vulnerability run very deep in these cases; all they think about is surviving, and they do not ask for any rights.

Adequate housing should protect the inherent dignity of people. However, many people live in squalid conditions. Homes are in dismal condition, but people live there. Where NGOs here or in Upper Egypt try to let people know about their rights, they find common living spaces leading to a lot of unhygienic practices and social diseases such as incest. Nobody speaks about it, because it is a taboo topic. We find such problems not always at the economic bottom of the society, but actually in all strata. However, the lack of adequate space and privacy induce it even more in poor living conditions.

*The participant commentary raised questions of Islamic shari`a and other laws as man-made. They expressed an interest in knowing some tools that could be used to support or push women to exercise their rights. In many areas, they do not even have laws to protect them. The role of women in contributing to the enactment of laws is one approach, for example.*

*Strategic considerations turned to the need to establish independent financial responsibility for women and men, as well as enact positive civil laws. Some observed that a major challenge lies in nonlegal but socially ingrained notions of women's inheritance rights. However, it was speculated that a social consensus supports women's entitlement to equal inheritance, or that equality exists as a concept, but that it is not generalized in society.*

Azza Soliman responded to the commentary by channeling the ideas as reflecting a collective effort to achieve positive change by introducing policies and organizing needs consistent with concepts related to rights. As civil society, we are facing the challenge to accomplish just that. As such, we must have a real role to play and the women's case is an inextricable part of the larger society's case. With respect to adequate housing and land rights, we do not only have to ensure women a decent place to live, but also to create a base to support her and each other through the process of changing policies.

There must be a link between the social base and civil society so that people support civil society to change practices. That is not always the case, and we have a problem in our society of claiming one thing but behaving in another way. We should work to have adequate laws and apply them in an aware and informed society.

In the Arab countries, everyone works alone without a heritage of collective work. However, if we work together, then governments will be less able to close down civil society institutions. We still need to establish common and solid foundations, a common base to change policies on a mass scale, not a field of individuals only. Our work is, therefore, to create a generation that works collectively, through networks. That is the only way it will work.

# Testimonies

## Inheritance

1. Hala Abd al-Qadir: domestic violence, divorcee who lost her home
2. Abla Abd uHadi: legal and cultural obstacles relating to inheritance rights
3. Shama'a Saidum: Jordanian woman asking for right to inheritance, taken by her brother at father's death

## Violence

1. Nagla Muhammed al-Imam: housing violation and sexual harassment, complex true case
2. Wrud Yasin: domestic violence
3. Rim Wa'il: cases on VAW, shelter for abused women
4. Tamer Sulaiman: alternate housing, VAW in Suhag

## Forced Evictions

1. Zinat Mahmud Askary: inability to adequate housing and problems of forcible evictions
2. Maged Hosni: forced eviction of 3,500 families
3. Asma Juma': case destruction of houses and loss of shelter, experience in Khartoum related to immigrants

## **Discrimination**

1. Adella Biadi: unrecognized villages
2. Maha Qupty: discrimination, segregation
3. Hanan Masri: Palestinian girl responsible for four boys with no legal papers and can't return to homeland under Israeli occupation
4. Jamal Umran: the return of Bahraini expatriates and lack of adequate housing

## **Legal Obstacles**

1. Hanaa Hamdan: institutionalized discrimination
2. Haifa Bitar: VAW case intersecting the human rights to adequate housing, health and security of person
3. Karam Saber: globalization's effect on women's housing and land rights of W

## **Militarism and Occupation**

1. Fida Abd al-Latif: case of occupation and practices of occupying state
2. Huwaida Ahmad: personal, inability to possess land and build my own home after it was demolished by my neighbor. Gender segregation in family.
3. Muhammed Hasim Jassam: Bahrain prevention obtaining rights due to land confiscation

## Testimonies on Inheritance

### Case 1: Hala, Egypt

Hagga Fatma had helped her husband to build their house and family business by working with him and contributing financially. However, all their investments in the form of shops and buildings were in his name, without a working contract between them.

As many people in Egypt interpret Islam to permit polygamy, Fatma's husband married three other wives. She accepted, because she was barren. Because of jealousy of the other wives, her husband divorced Fatma and put her out in the street without a penny. While her husband never paid her any alimony as he should have, she looked for ways to recover her part of the investment, but always refused to sue him, because his business was declining and he had financial problems. She moved around to several cheap rental flats, including one with public toilets. As she was living in increasingly bad housing conditions, her health degraded. Her eyesight began to fail. In her last days, she was living in a room with only a mattress. Eventually, she died of declining health, complicated by her squalid living conditions, and never recovered any of her investment throughout the broken marriage.

#### *Main comments arising from discussion:*

- Egypt has signed or ratified all international human rights conventions and those should be guaranties. The Egyptian Civil Status Law guarantees that the husband provide a shelter to his wife and maintenance upon divorce. Law and policy do not provide shelters for these women though, and both should be amended to provide for deprived divorcees.
- According to local custom, Fatma had fewer rights because she did not have children. Many such childless divorcees in Egypt find themselves in the streets after a divorce anyway, as wives are considered as baby makers and maids only. Divorcees and widows are despised and have almost no rights. There are three shelters for women in Egypt, but they are not well known. They are only places to sleep with very inadequate conditions. The shelters do not provide any rehabilitation services for the women and refuse any monitoring.
- A person in this case is also herself responsible, because she never tried to have any property in her name, and then always hesitated to defend her rights. Responsibility is shared by the NGOs that should raise awareness and participate in needed law reform to

protect the rights of women, children and the elderly. There are institutions for the elderly, but they are private enterprises providing services for those with financial means. A social insurance system also exists for the workers, but the retirement pension is proportional to the contribution. Earning notoriously low wages, most women in Egypt find their retirement benefits insufficient to support minimally dignified living conditions.

### **Case 2: General testimony by Abla and a specific one by Shamaa, Jordan**

**Abla:** International law affirms that discrimination against women—including in access to land, property and housing—constitutes a violation of human rights to protection against discrimination.<sup>1</sup> Yet, women continue to be discriminated against in the field of housing, land and property, denied ownership, prevented from making decisions over housing and land issues, despite the fact that the home is their economic and social centre and women are the primary users of housing and land. The obstacles to women realizing their own rights are multiple and interconnected, from customary and religious laws and traditions to gender policies, and have an impact on women's ownership as well as access and control of housing and land.

For women, inheritance is the most-common means of transferring wealth within the society, but discrimination in inheritance also forms one of the major reasons for gender inequity in housing and land tenure and the disproportionately high levels of poverty and housing insecurity for women. In many countries, women cannot own, rent, lease or inherit housing, land and property independently from a man. Social and legal practices often manipulate religion and traditions to favor man's access to, and exercise of power, and subordinate women at the family, society and state level.

For example, young women being accused of unauthorized use of her sexuality hide in prison, when the real reason for the charge is that brothers are unwilling to share inheritance. Mainly, brothers coerce their sisters to give up their inheritance by having them officially accept an amount of money instead of their actual share of the property. In most cases, cultural standards intimidate women from going to court. This needs to be addressed through training of judges, lawyers and ministerial staff concerned to ensure combat coercion, but also through NGOs raising women's awareness of their rights.

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<sup>1</sup> Detailed reference?



**Shamaa:** Samia<sup>2</sup> has been resorting to court and fighting for her share of inheritance for 15 years. She has a sister and two brothers from the same mother. The father left a large estate of lands and commercial properties. When the sons decided to distribute the estate, each son was “responsible for” a sister. Samia’s elder sister was forced to concede her rights and, as Samia was only 13, her sister-in-law illegally signed for her. By this fraudulent signature, Samia lost most of her share of the inheritance. Later, she married and, at the beginning of 1980s, the brothers shared the rest. She refused to concede her inheritance rights, but her brothers pressured her husband, who ended up forcing her to concede a part. Her husband bought a part of the land from the brother, who said he would give a part of it to Samia, but never did. She built a building on it with bank loans, as she also educated her children with loans.

She sued in court for her inheritance and won three times, but the brothers appealed the decision every time, and the fourth time she lost the case by the decision of a judge colluding with the wealthy brothers. Samia is still trying, with her children, to have her rights back, but social, economic and family pressures—and now a nepotistic judiciary—conspire against her.

*Main comments arising from discussion:*

- The main duty holder is the state and government, because, as the responsible legal personality, the state should reform the Jordanian judicial system regarding inheritance, especially as, theoretically, it is the only protection for women’s rights to own a house. Jordan is a signatory to treaties and agreements, and that should form guarantees, but the branches of government do not implement those binding obligations. Some 90% of lands and houses are male-owned property in Jordan. The government also would prevent NGOs’ corrective interventions as an interference in the judicial system.
- Solidarity between women can be successful. Hanan gave the example of a woman whose sister-in-law supported her, told her husband she would not use part of an inheritance that was not theirs and obliged him to honor the inheritance rights due to his sister.
- Some local women’s movements have formed in Jordan, but also competition among the NGOs weakens their effectiveness. International NGOs have to adapt to each country and make compromises in order to maintain their operations with host government permission. Semiofficial

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<sup>2</sup>This name has been invented, for the woman asked not to give her name because of a known family in Jordan and she is afraid that intervention of NGOs could be considered by the State as interference in judicial affairs.

women's committees and a national women strategy focuses on abolition of honour crimes, including through legislation, are potential assets to uphold women's rights. However, progress is slow and gradual and lacks sufficient attention to women's economic rights, including housing and land.

- Women depend on men, because women typically have large families to care for. That means that they have a lot of domestic chores, even if they also work outside the home. They generally earn wages insufficient to afford buying property. That is why inheritance is so vital for women's economic independence and survival. Women customarily need permission from a male relative to own or use land.
- A major problem is the public misunderstanding and ignorance of religious and civil laws, and the consequent social practices in the Arab world. There is a crucial need to design manmade laws to ensure justice and equality. However, people generally do not fight enough for their rights.

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### **Thematic analysis of the panel**

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The biggest obstacles to women's right to inheritance are social traditions and customs, not religion. Brothers' behavior can be particularly discriminatory toward sisters, assuming a posture of superiority over sisters and female relatives in general. This attitude is instilled in their minds through family upbringing and the educational system (as comments from another testimonies support below).

Civil society should challenge these socially discriminatory practices as a priority, and work long-term to raise awareness among women *and* men on women's rights. NGOs also should support and encourage women to demand that their local, regional and national authorities respect, protect, promote and fulfil their rights. Questioning state responsibility should include resorting actively to international mechanisms.

International human rights law affirms "substantive equality." This implies that governments should take affirmative action to improve the lives of women who are vulnerable and cannot improve their lives without assistance. The state, in all cases, is the primary duty holder and, in order to uphold inheritance rights, governments should:

1. legally clarify women's rights to inheritance and, in doing so, comply with their international obligations;

- and for those states not party to the treaties, they should ratify them immediately;
2. create the necessary mechanisms to ensure that these positive laws are implemented, namely in relation to the judicial systems that should oblige the husband to give his wife her share of their common property after divorce, or adequately compensate her, and force brothers to share inheritance equally with female siblings;
  3. ensure that all state authorities, at all levels, adopt nondiscriminatory decision-making processes, as they now often disregard women's needs, concerns and legitimate rights;
  4. organise public information campaigns on these rights, as well as allow and support centres to help women to know and defend their rights to inheritance, including housing and land;
  5. provide shelters to women deprived of their rights, especially poor and elderly ones, given that these shelters should be actual places to rehabilitate them.

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### Technical analysis

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In these cases, the participants in the consultation have detailed well the threats and obstacles, victims and most vulnerable persons, consequences and duty holders. However, the presenters have neither identified the entitlements of the right to housing violated in their cases, nor linked the right to inheritance to these entitlements. A deeper analysis in this sense would have allowed better and more-convincing presentation of the impact and consequences of the identifiable violations of women's right to inheritance as a component of the victims' right to adequate housing.

It would also be useful to have a detailed list of the national laws as a checklist of the guaranties that are available—or should be—in the concerned country. These laws should reflect the sources where housing rights are defined, as well as the overriding principles of application,<sup>3</sup> which the presenters also have neglected precisely to refer to. In all cases, gender equality is, of course, paramount, but also general nondiscrimination, rule of law, nonregressivity, international cooperation, as well as demonstrating the indivisibility of rights should be identified.

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<sup>3</sup> Self-determination, nondiscrimination, gender equality, rule of law, international cooperation, nonregressivity/nonretrogression (progressive realization).

These references would give a more-solid basis to pose solutions and design a specific plan of action for each case and country. The list of existing and potential actions would then form the basis for a strategic plan corresponding to the thematic analysis.

## Testimonies on violence against women (VAW) and right to adequate housing (RAH)

### Case 1: Nagla and Azza, Egypt

**Nagla:** Azza was married for 12 years when her husband kicked her out with her two daughters, because she refused to accept his violent behavior. She lived in a dilapidated home in Giza without even potable water, and the rent was more than half of what she earned by selling handicrafts. A divorced man living in the building harassed her and tried to force his way through her door. She called the police, who took them both at the station. The neighbour colluded with her husband and agreed to say that she was married many times. She was accused of polygamy, and the police held her in custody. Because of the resulting social stigma arising from the false charges against her, Azza's landlord evicted her after two months, despite her five-year rental contract. She had to move constantly and lost a lot of money to move from a flat to another. She also had to drag her daughters from one school to another.

**Azza** added that housing has been a problem ever since she got married. When she wanted to divorce, everybody asked where she would go since her father was dead and her brother did not want her back. Even if some landlord are helpful, neighbours do not accept divorced women. It is very difficult for her to give her daughters proper conditions to study because of these housing conditions and her husband does not leave them alone.

#### *Main comments arising from discussion:*

- Law No. 6 of 1966 affirms that the agreement between two partners is the core of any contract, but women are not always taken seriously. This is pure gender discrimination and breaches to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which Egypt ratified in 1981 without implementation. A Prime Minister decree asks calls upon the government to provide proper shelters to harassed women, but decrees are seen as legally nonbinding administrative instruments and lawyers do not referred to them in their arguments.
- NGOs need to know more about women issues, in order to raise awareness about Law No. 6 especially, and use the media for pressure.
- The police harshly mistreat these women, and effective policies and training are needed to remedy, punish and deter such violations.
- In some countries, judicial measures, such as restraining orders, prevent men to harass their ex-wives. Such measures

also should be developed and applied in Egypt. The law also should force men to support their children and ex-wives' after divorce. Whatever the laws are in a country, women in these cases should resort to court for legal remedy.

- A landlord does not have the right to terminate a contract arbitrarily. This is stipulated in Egyptian law and a basis women, like `Azza, to seek justice in court. In many cases, however, the women react on an emergency basis. They do not know their rights and accept any kind on contract.

*Note:* In the discussion, participants from Bahrain pointed out that, until 2002, women in their country had no legal right even to rent a house.

### **Case 2: Wurud, Egypt**

The woman has four children, including one daughter. When she got married, her husband was living in poor economic conditions. She protected him, helped him, and hid his condition. He then became wealthier and had extramarital relations. She accepted that fact, but asked him to let her divorce. He beat her in front of her children. She was no longer young, and he refused to divorce. She eventually managed to divorce, but fell ill and died.

Her daughter had to leave school and move in with her father, who also beat her. He forced her to stay at home, forbidding her to go to school and to work. The daughter did not resort to court, because social practices indirectly repress women to do so and most police manifestly despise battered women. If she were to go public with her problems, she would be seen as an indecent woman. She is also afraid not to be able to marry and, if she does and has children, that they would suffer a similar fate.

#### *Main comments arising from discussion:*

- Formal and informal counselling is available to help women in such situations, but very few victims know about them. There is also a ministerial office for civil protection of family relations. Women need to be more active in defending their rights. If they do not fight, nobody will do it for them.
- There are no clear laws on domestic violence in the country. Some legislation protects women, but is not implemented for reason of social customs and traditions. Moreover, from the perspective of the state, a problem exists only if it becomes obvious by way of a court case. Family courts and NGOs facilitate the mechanisms to apply the law, but Egyptian women face blame if they complain. That is why they also find that

they need to fight traditions, and not be so passive and seek all possible recourse. However, to do so, women victims of abuse and discrimination not only have to combat their violator, but larger, systemic abuse emanating from a chain of duty holders.

- Therefore, women's struggle should start from the education of children. If mothers would bring up their children with a sense of equality, brothers would not violate their sisters' rights. What mothers teach their own daughters is among the impediments to gender equality.
- Some public and private welfare organisations exist, but are neither sufficient in number, nor well organised or effective. Many NGOs have family services, but very poorly organised and often far from free.
- Sometimes, communities can find solutions. The custom of reconciliation (*sulh*) exists (as in the Palestinian society), whereby people collectively try to find solutions and assistance for a woman who is divorced or widowed and does not have a house. Moreover, communities should be more proactive and preventive, in order to pose solutions before the problems occur. The state also bears a responsibility for that.

*Note:* Many women in Palestine suffer from the same problems but they do not speak out because the occupation assumes the first for everybody, relegating justice for women to a secondary issue on the national agenda.

### **Case 3: Rim, Egypt (remedial responses)**

The Association for the Development and Enhancement of Women (ADEW) has been working with female heads of household for 17 years, in the squatter areas of Gharbiyya, Qaliyubiyya and Cairo, where housing is a very critical issue.

According to official statistics, 33% of Egyptian women have been beaten at least once during their lives; 72% of them by their husbands, 43% by their fathers and 37% by their brothers. In the last study conducted in Manshiyat Nasr (east Cairo), on 444 women, 96% reported sexual violence. Women stay in these abusive situations because of lack of economic support, no place to go, influence of families and friends, and the consequences of social stigma like that faced by divorced women. (Some 50% seek the help of family and friends first.) Many fear their husbands. There are no specific sanctions against men beating women and the existing ones are for a very minimal.

In such cases, the women's housing rights entitlements to security of person and a safe environment in the house is violated. They also refuse to go to the police, and the fact that cases are not reported does not help in forcing the authorities to enact new laws, nor the society to change. Therefore also, the over-riding application principle of "rule of law" is also violated. Concerning the entitlement to security of tenure: Even in cases where women buy a house on their own, social pressure makes them register it in their husband's name.

The sources are the affected rights and entitlements are CRC, CEDAW, and CESC. However, except for the state's ratification of the relevant treaties, there is no specific local law, thus no local legal guarantee, to protect women against domestic violence. The main obstacles for the women are the traditions and economic barriers that make them and their children particularly vulnerable and eventual victims.

Losses and costs are both physical and psychological. Some victims need life-long treatment and have very serious injuries consequent to the domestic violence. The ultimate duty holder is the government, which should enact laws protecting women from abuse as solutions to this phenomenon. However, also civil society does not provide adequate awareness and support to abused women.

#### *Main comments arising from discussion:*

- The few shelters exist, and those existing are only a place to sleep without remedial or rehabilitation services. ADEW is opening a shelter that will also provide psychosocial



counselling, economic empowerment through microcredit, and legal empowerment by helping women to obtain IDs and legal property. Qalyubiyya Governorate supports the idea and is renting out the land and building for the shelter for only LE1,500 (€193) a month, but it does not provide funds to have qualified staff, and bureaucracy moves slowly.

- Cooperation with the government should be developed, and civil society should provide consultation and guidance to official on the provision of necessary services. NGOs can build some model programs and then have the government support them. For that, NGOs need to strategise better.
- Concerning microcredit, the system applied in Egypt has been borrowed from Bangladesh. Women in the ADEW shelter will have a project and receive a small amount for it. When they manage to make a livelihood from their projects, they return the money. By then, they should be empowered enough to leave the shelter and live on their own.

#### **Case 4: Tamer, Egypt**

In 2003, a dam broke in Sohag Governorate, in Upper Egypt, and flooded a village. When the dam was being built, the government ignored the crumbling of mud-brick houses that resulted. 800 to 900 people lost their houses, as well as their crops, gardens and livestock, so all aspects of their lives were affected. It was impossible to gather more information, because field researchers were arrested during their fact-finding mission. We tried to use the media, but journalists were denied entry to the area subject to military closure.

According to the international treaties and other agreements that Egypt has signed, as well as the Egyptian Constitution and legislation, all citizens are entitled to their human rights, included security of tenure. Yet, the government has been very slow at applying the law, and has relocated inhabitants to tents of two square meters for eight people. Those conditions have provoked sanitation problems. Women have lost all privacy and had to share bathrooms with the men, which is culturally anathema for them. They also were far from their villages and the only transportation was by expensive private taxis. The inhabitants lost their jobs as a consequence of their distant relocation. The authorities gave LE2,000 for each person, but without informing the inhabitants whether it was intended as temporary relief or “compensation.”

#### *Main comments arising from discussion:*

- There is a lack of protection of the NGOs themselves. The civil and military authorities threatened NGOs’ field workers as well as lawyers. Civilian monitors should be allowed to access the affected sites to ensure public awareness of the

situation, and also because, according to Egyptian law, a lawyer needs a proxy to defend his client if the latter cannot be present.

- In general, many such disasters happen in the Arab countries and are not reported.

*Note:* USAID funded the construction of eight dams in the area under governmental direct order, without consultation with the affected local population. No information was published. After the catastrophe, the government closed the area like a military camp. People were terrorized, but did not complain or claim their rights.

### **Thematic analysis of the panel**

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The four cases are from Egypt, but the discussion confirmed that the same phenomenon of violence against women exists in the other Arab countries. These presentations provided a good overview of the obstacles to the improvement of the situation of violence against women in the region. While laws on domestic violence are not specific enough, the implementation of the few existing legal safeguards is not adequate. One of the reasons for this is that civil society and women in particular are not sufficiently aware of available support mechanisms, even though some of them are already not adequate for effective rehabilitation of the women victims of violence. Another very important obstacle is the harsh judgment by the society, including the police, of these women. They do not dare seek available solutions because of this social contempt directed at them. That is why they rarely resort to judicial remedies, which is problematic for the improvement of jurisprudence, initiation of new laws, and public acknowledgement of the situation.

Civil societies and NGOs can design from this overview a whole panel of strategies and actions to take, based on campaigns of awareness on women victims of violence, the consequences on their other rights including the right to adequate housing and land, and the supportive laws and mechanisms available. Civil societies should pressure the state to take up its responsibilities in these campaigns, in the drafting of adequate laws and the creation of necessary mechanisms to support victims of violence. Civil societies also should be ready to cooperate with the authorities, when possible, by cooperating on local projects of shelters or national campaigns, for example, and publicize these good practices to have the public and other NGOs feeling empowered and more optimistic about potential improvements of the situation. Good practices from other countries—such as microcredit in Bangladesh are also sources of potential solutions, as they can constitute practicable ideas to adapt to the local context. On the contrary, bad practices like the refusal of access to victims, should also be widely reported and repudiated. When such responses are

impeded at the national level, then the international level remains the available—if not only—forum.

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### Technical analysis

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The presentations in this panel were very uneven in nature (personal experience directly or indirectly reported, a national situation, first-hand experience as a field worker). The analysis of the cases also varied: some followed the monitoring methodology, and others not; some relate to the themes of the panel, others not. However, the cases generally contained good references to the laws and international principles as the sources and guarantees of the right to housing and land. The obstacles were especially well detailed and the victims well introduced, except in case four where no specific data on women was provided. The duty holders were also recognized and legally grounded.

References to overriding principles were absent from the cases, as was information on the consequences of violence against women on the human right to adequate housing. More actions, like those suggested in the thematic analysis, should have been proposed. However, some good practices and promising prospects arose from the discussion, such as the “institution” of reconciliation (*sulh*), in Palestine, new kinds of shelter provision, and empowering women through microcredit.

## Testimonies on urban forced eviction

### Case 1: Zinat, Egypt

Evictions have increased a lot in the past 20 years, and can occur at any time without prior notice. When evicted, inhabitants often are not given any alternative place to live in. The place they find should be temporary, but they end up staying there indefinitely, because there is nothing else. The alternative housing is usually very inadequate.

In Zirzara, in Port Said, some public housing was badly built and the construction was not sound, so the Municipality of Port Said authorities evicted the families living there. The impoverished inhabitants had no choice but to squat in the vacated building for lack of any alternative. The Municipality authorities evicted them a second time later and dumped them in a waste-disposal site. The reasons that the authorities give for the evictions were mainly: the “development” of slums, roads and infrastructure construction; and the elimination of illegal construction on state land or agricultural land. With regard to the first premise, the government considers slums as if they were a cause of the housing problem, while they are actually a consequence of it. The Zirzara case, thus, resembles the treatment of slums in the Duwaiqa and Gharbiyya areas. On a side of a canal in Munufiyya, the authorities also have evicted 60 families under the premise of infrastructure projects, and another 1000 families are to be. Whatever the validity or fallacy of the official reasons, it is the arbitrary treatment, the authorities’ uncivilized use of violence, and the harmful material, physical and other consequences for the victims that are most consistent and most objectionable.

When the government has relocation plans, it resettles the inhabitants in decent houses only in a very slow manner, and long after the eviction. Meanwhile, while the number of people living in bad conditions increases. Usually, the authorities form eviction committees to assess the situation before the evictions, but these do not have any survey methods or criteria. They only determine who lives in these areas, and who is eligible for inclusion in the (often unpublicized) relocation plan. If both a man and his wife work during the day, for example, and are not present when the committee comes to take its survey, they will not be considered entitled to access replacement housing.

In Gamaliyya, a woman with children was abandoned by her husband for 17 years, but the committee asked her to present his ID, because only he—as a male head of household—would be entitled to replacement housing. Women, besides the miserable conditions they live in, are more severely affected by the shock and violence of the evictions, because the men are generally away

working at the officially chosen time. The women have to protect children and property, and do not know where to go. The police, who always accompany the eviction committee, often beat the women, which at least once resulted in a pregnant woman losing her baby. Moreover, these victims are sometimes arrested, morally abused, inhumanly transported, and can even be put in arbitrary detention.

*Main comments arising from discussion:*

- Every case of abuse should be filed and prosecuted, but the police often do not accept to register them, even when the victims complain, and the police sometimes treat them violently.
- Even as an organisation, when NGOs and legal defenders manage to meet agencies and the committees with the files of such clients, the advocates are mistreated like the people. We still try and, if it does not work, we resort to courts, using the CESCR's General Comment No. 7 on forced eviction and other sources of international law. The final decision depends on the judge's discretion, even though the Egyptian Constitution provides for the local applicability of treaty law.
- Concerning women's rights cases are considered under general legal provisions, since there are no special laws that apply to women in such cases. Where the law is silent, advocates can use the media sometimes to address the issue from a woman's viewpoint.

## **Case 2: Maged, Egypt**

In 1982, 3,514 families' homes collapsed and the government relocated them in Zaihum neighborhood, in the Saida Zainab quarter of Cairo. Since then, they have been living there in poor conditions, in small, single-room flats, with common bathrooms, no pavement and no sanitation. After so many years, the government decided to relocate them, but to places they could not afford and far away from the outskirts of Cairo. The inhabitants refused and fought for their rights by mounting a court case collectively.

They paid for a study (alternative plan) in the 3,514 families' name, describing what kind of house, neighbourhood and infrastructure they would like. They sent the study to the government. The officials were embarrassed, because they were not used to see people taking so much initiative. The authorities then signed contracts with the people to settle them somewhere else for one or two years only, the time needed to build the houses they wanted according to the study.

The community felt empowered to encourage governmental institutions to take steps and they created an NGO called *Blossom and Dreams of the Society*. That community also has been cooperating with businessmen not on housing directly, but on a national plan for the employment of youth that would give firms tax incentives to employ youth. The first phase was scheduled for completion by December 2004. The only problem is that the number of families increased from 3,514 to 4,700, and then to 7,100 families, but only those having contracts from the beginning will be entitled to move into the new houses.

*Main comments arising from discussion:*

- In many other similar cases, the areas were simply cleared. It is definitely not a common experience, but the main difference has been for all people to join hands and work all together. It also has taken a lot of work and time from many NGOs supporting them to establish health and economic projects, let them know about their rights and train them to defend themselves. They combined strategies, instead of resorting to legal proceedings only. In most cases, the NGOs come just before and/or after an eviction, try to report it and take one or two actions, but there is still need for long-term strategies and more capacity to deal with the high volume and number of evictions.
- The number of inhabitants increased so much over time, as, in most cases, squatter areas expand rapidly in Cairo. The population especially increases due to urban migration from villages, a phenomenon for which the government is responsible and a duty holder, because of its own urban bias and the failure to invest sufficient effort into the development of rural areas.
- These people could be considered as internally displaced persons (IDPs) and then benefit from specific status and services considered standard in international instruments. In Lebanon, for example, a ministry has been created for the resettlement, return and rehabilitation of those IDPs displaced during the civil war and subsequent occupation.

### **Case 3: Asma, Sudan**

A chronic housing problem in Sudan is the living conditions of thousands of squatters on the fringes of cities, especially Khartoum, coming from other parts of the country. The municipal authorities regularly forcibly evict these areas. They sometimes incorporate them into the city plans for public housing, but these plans ultimately benefit select officials or rich families. A large part of the populations in these areas are women whose husbands died in the civil wars and conflicts that depopulate different parts of

the country. If a woman is alone, for whatever reason, she will not be entitled to have a public house in any case.

Large families in these areas live in very poor conditions, cannot have a normal life and suffer from psychological problems. As they live in the city's outskirts, transportation is a problem and impeded the people's access to services, including children's attendance at school, because transportation costs are prohibitive. Most women work in state-run food or tea factories, where the government officials hunt them to have them going through health procedures. There are also social costs ascribed to these living conditions, as families do not function anymore. The duty holders are the private sector and the public authorities. No one bothers to protect these people.

*Main comments arising from discussion:*

- There is a need to raise awareness about these issues, especially concerning women, and to publish detailed reports. The government and the civil society both should work on that, but there is no NGO specialized in housing rights issues, nor on issues of violence against women. People think that the government will do something, but it only conducts some plans and surveys.
- Many service-providing NGOs exist, but only offer food and medicine. Most are not aware of housing as an integral right.

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### **Thematic analysis of the panel**

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Presentations on the phenomenon of urban forced eviction, like the previous one, were diverse in nature and scope, including two general assessments and a specific example of a good practice. The details provided were also rich and well documented, if also uneven. The most interesting information was the main reasons (pretexts) that led to the forced eviction, along with the specific consequences that those have on women. In this way, "development" and infrastructure installation, "illegality" of construction and war have been cited, and all show the high level of State responsibility. In most cases, especially in Sudan, the authorities' passivity and indifference toward the problem only exacerbates it.

Among the obstacles to bear in mind are the inadequacy of the services proposed when any unfair and gender-unequal administrative procedures. The testimonies again cited misogynist police behaviour and the problem of judges' discretion, adding to the matrix of discriminatory measures afflicting women seeking just implementation of their housing and land rights.

Case 2 focused on a good practice based on multilateral cooperation and a long-term strategy, based on the collective decision of people whose housing rights were violated to fight and defend themselves. Although this practice might not be replicable in all cases, it provides some very interesting lessons, such as:

1. If they act collectively, people can find more effective solutions and are more powerful;
2. If collectively pressured with a solid, popular front, authorities can prove more cooperative than expected;
3. If NGOs work on long-term strategy with victims and cooperate to multiply actions and divide labour, they have more credibility in front of the people and the private and public actors, and reach better results;

Keeping in mind the collective goal, and accepting to cooperate with any actor who can serve it—even if that means interacting with the authorities or the private sector—are very important tactical options to consider within a given strategy or combination of strategies.

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### Technical analysis

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As in all presentations, the entitlements of the right to adequate housing are not precisely identified, neither are the sources of rights, the overriding principles and the guarantees. These omissions render the presentation of the case more dependent on moral arguments and emotional appeals. It also much imprecise the role and duty of the state and, consequently, makes the posited solutions rest on less legal specificity and authority than they could be. However, in these cases, the explanation of the state's role in the practice of forced eviction partly compensates for this deficit, as in the identification of the state as a major source of the situation of the squatters in Sudan, but also in the good-practice example in Egypt, with the state responding positively to the community's initiative. These help form the basis from which one can deduce and determine plans of action *vis-à-vis* the state. In all cases of forced eviction, civil societies and NGOs should particularly keep in mind the legal tool of General Comment No. 7, which CESCR adopted specially as guidance for States to avoid, prevent and aid victims of forced eviction as a matter of treaty-bound obligation.

Some details on the obstacles to the realization of the rights or the reparation of violations were provided in the presentations, as well as references to the victims and vulnerable people, the consequences of the violations/events on them and their rights, and the duty holders/action makers. More-complete lists and more-effective arguments, especially on the consequences, would



be possible by monitors filling a “Loss Matrix” form, for example, so as to determine the accurate costs and losses of the evictions, on short and long-term, and the compensation to which the victims, therefore, should be entitled.

## Testimonies on Discrimination and Segregation in Housing

### Case 1: Hanan, Lebanon

In 1950, the part of the 1948 Palestinian refugees in Lebanon that corresponded with the UNRWA criteria received support from UNRWA and could obtain IDs and residency documents from the Lebanese government. Another part of the refugee population was not entitled to register with UNRWA, but could buy IDs that allowed them to be officially accepted in Lebanon with limited rights and privileges. Other refugees arriving from Palestine after 1950, or later transferred from the OPTs, who could only go to Lebanon have no ID. The children of the latter group also have no IDs and no rights.

Najwa, 21, lives in a camp in south Lebanon. Her mother is Lebanese, and her father is a Palestinian who came from Gaza after 1967 War. Her father took the ID of a friend to register the marriage, but the couple later divorced. Both remarried and left the children alone. Najwa is responsible for four brothers and sisters. She was 14 when her father died and left her without any ID. She even could not obtain a death certificate for her father, since he was not supposed to have ever existed. As long as these families without IDs are docile, the government leaves them alone, but they are subject to expulsion (deportation to their own country is not an option) for any problem and have no access to any services, including medical. Lebanese law gives nationality only to children with a Lebanese father or a Lebanese single mother. Najwa's only support comes from the high level of social solidarity prevailing among the community in the refugee camp.

Israel, the principle duty holder, as occupant of the refugee's country, homes and properties, as well as the cause of the refugees' expulsion, prevents any reunification of the indigenous families in 1948-occupied Palestine. UNRWA is also responsible, because it also poses impossible criteria for certain classes of refugees to obtain services. UNHCR cannot undertake its mission with Palestinians, due to the prevailing interpretation of its authorizing 1951 Refugee Convention. Consequently, no agency provides protection for Palestinian refugees that is a codified right for all other refugees on earth. UNRWA, which was created specifically to provide services only, does not provide sufficient help even for those meeting its own criteria. There is an urgent and overdue need for UNRWA to reform, in order to adapt to the actual needs of all Palestinian refugees, including in emergencies and support to families to transfer files from a country to another. Lebanon is also responsible, as it refuses to allow this and other means to facilitate Palestinian refugees to regularize their status in

the country. Illiteracy and low awareness among the refugees also plays a role in perpetuating their plight.

*Main comments arising from discussion:*

- In many cases, one person only is registered from a whole family for a household, and the others are in continuous insecurity. Some who were expelled manage to return back home, thanks to the intervention and assistance of UN agencies. Obtaining any right is difficult. Israel has ratified all human rights treaties, but consistently violates them.
- A collective solution is needed for the whole Palestinian people. A more inclusive nationality law in host countries could be helpful. However, liberalization of the nationality law, for example in Egypt for nationalization of children from Egyptian mothers and foreign fathers, excludes Palestinian children.
- It is hard to argue these cases in front of any international agencies, because refugees are afraid of giving information since they are treated as illegal immigrants. Conflicts between UN agencies and UNRWA's fear of valid criticism in front of any authority also have negative consequences. Nonetheless, there are golden opportunities in the UN system to raise these issues, but often capabilities are not applied to such optional strategies. In south Lebanon, HIC-HLRN and a local member NGO presented a parallel report on the situation to CERD (2003) and, for the very first time, in the UN history there was a Concluding Observation of a legal body explicitly acknowledging institutionalized discrimination against the Palestinian refugees in Lebanon.<sup>4</sup>

**Case 2: Jamal, Bahrain**

Bahrain's land area used to be 628 km<sup>2</sup> and is now 711km<sup>2</sup> because of a project to reclaim land from the sea. Of the available land, 91% is the private property of the royal family. Consequently, the residential housing options for the population are limited. Coastal and northern areas, agricultural lands and ports are all the

<sup>4</sup> See National Institution for Social Care and Vocational Training/Beit Affal al-Sumud—Lebanon and Habitat International Coalition—Housing and Land Rights Network, "Institutionalized Discrimination against Palestinians in Lebanon" [parallel report submitted to the 64<sup>th</sup> session of the United Nations Committee on the Elimination of All Forms of Racial Discrimination, February/March 2004. See also Concluding Observation of the Committee against Racial Discrimination: Lebanon, CERD/C/64/CO/3, 12 March 2004, available at HIC-MENA website: [http://www.hic-mena.org/documents/NISCVT\\_HIC%20CERD%2004.pdf](http://www.hic-mena.org/documents/NISCVT_HIC%20CERD%2004.pdf).

private possession of the royal family. The 1973 Constitution, amended in 2001, provides that the fabric of the society consists of the ruling family. The royal family is inviolate and cannot be questioned, and this applies also to the Prime Minister, as he is a member of the royal family.

The presenter represents a local committee consists of 250 returning families—parents with two to three children per family—who were expelled or exiled from the country for political reasons. When they returned, they had no housing rights and stayed with relatives. The houses are too small for all residents, which led to various negative consequences for both families. They are wedged in one room where the children study, watch TV and carry out all family functions. The women suffer particularly, because they have nowhere to go and no privacy at home. The government should provide adequate housing to those families that have low income, because many also are not entitled to work. They have issued petitions with the Housing Ministry, but the list of petitioners is so long that some wait for 20 years before obtaining a house. We have a good relationship with international and national human rights organizations, and with the UK and Bahraini parliaments. Consequently, the parliament now asks questions to the ministry of housing and work, during parliamentary sessions, concerning the reasons why these 250 families are homeless and jobless.

*Main comments arising from discussion:*

- Among the community in this case, many households are head by women with no financial resources. They would also need to work to have a better subsistence, especially for some who are widowed, but cannot.
- The civil institutions seek support of media and political parties as well as other Arab institutions, lawyers, and international human rights organization.

*Note:* the Constitution affirms that the state should provide adequate housing to low income categories, and those citizens can approach the housing department to be listed if they prove that they have right to have access to housing. In 2001, 50,000 requests were filed. They have to pay 25, 30, or 40 dinars (1 Bahraini dinar = 2.04) only to be registered on the list, and wait between 15 and 20 years. Usually after another 20 years of paying instalments to purchase the house, the putative owners receive an official tenure document characterising the house as a “gift of the king.” This deed misrepresents sale and the purchasing process compromises the owner’s tenure.

**Case 3: Adella, Palestinian inside the Green Line  
(Historic Palestine/Israel)**

Among the forms of discrimination against indigenous Palestinians in Israel is by way of Jewish-immigrant landowners overpricing land. There is also insufficient adequate housing available, because housing is not recognized for its social function as related to natural or historic human settlement, but is a tool of social engineering to favor the incoming population at the expense of the indigenous people. Laws are consistently unfavorable. For example, the Israeli government enacted a law in 1950 on the so-called “present absentees”; i.e., all those owners (or part owners) who had left their properties between November 1947 and May 1948 were summarily dispossessed and their homes/lands/properties were transferred to the State for redistribution through “national institutions” to the exclusive benefit of Jewish settlers. The process of land confiscation on a discriminatory basis, against the Palestinian Arabs, has been continuous since then. Only 4% of the national housing budget is allocated to Arab areas, while Palestinians represent 20% of the Israeli population inside the Green Line. The lack of permits constitutes the main pretext for the Israeli government to demolish Arab houses, and the owner of the house has to pay for the bulldozer “service” and the relocation to another home. Palestinians who already have lands choose, for various reasons, to build their houses without a permit, usually because the Israeli bureaucracy obstructs Palestinian Arabs from obtaining building permits. Some try to obtain building permits, but end up staying with their parents for lack of another housing option without the permit. They also often do not know what to do finally feel forced to build for their family, despite the demolition threat.

Palestinian women face two types of discrimination: as Arabs and as women. Most women work at home, because there is no adequate transportation from villages to places of work, and they have no vocational training for work in the public sphere. To an even greater degree than Arab men, they do not participate in policy making and are not allowed to be part of the planning strategy. In many villages, institutionalized discrimination in the provision of public services results in a lack of electricity, water or sanitation. These difficult living conditions, aggravated by housing density and cramped space, lead to increased domestic violence.

*Main comments arising from discussion:*

- The Mossawa Organization has launched media and legal campaigns in Arabic and Hebrew to promote domestic (Israel) support for solutions to the housing problems facing Palestinian Arab citizens. It also has conducted budget

analysis and tried to negotiate compromises with local authorities. Cases need to be more and better documented

so as to be presented before the courts and parliament. Mossawa tries to reach out to Israeli committees that represent the extremist or fundamental right of the government, but there is also a need to seek international report.

- The main duty holders are the Israeli government and international organizations, though it is difficult for international organizations to intervene, because Israel prevents it. Instead, the state uses slogans and raises issues like security, harassment and gender injustice within the Jewish community. The construction of villages also needs to be approved by the regional planning authority, and only 19 out of a proposed 68 new Arab villages have been approved, and those are for purposes of demographic manipulation. (See testimony on the Naqab Bedouin below)
- The CEDAW committee, in his concluding observations to Israel, has insisted that the Supreme Court should secure equality in its rulings.<sup>5</sup>

#### **Case 4: Maha, A Palestinian Woman from Galilee**

Nazareth is the largest Palestinian city in Israel, with 70,000 inhabitants living on 3,500 hectares. Since 1948, the Israeli government has confiscated most of the land for the development of neighboring settlements, according to discriminating policies that favor Jewish localities over the indigenous Arab ones. Nazareth inhabitants suffer from unemployment, low income and other poverty indicators: 50% of the families and 60% of the children suffer from poverty, 77% of the women are unemployed. On a socioeconomic scale, the city is located at 3 on a 1–10 scale. There is no open public space, no industries, nor any good street lightning. With the deterioration of infrastructure and the decrease in public space, women face shrinking opportunities as social actors and declining security.

This difficult socioeconomic situation has led to crimes, drug addictions and violence against women. It also has affected the harmony that used to prevail between Muslims and Christians.

The Israeli government plans to concentrate Nazareth through restrictive town-planning criteria, foreclosing land use options and access to resources. Nazareth inhabitants suffer from segregation of the Jewish settler community on one side, and on the other side are encouraged to move out into better houses, but outside the

<sup>5</sup> Committee on the Elimination of Discrimination against Women, Concluding Observations: Israel, U.N. Doc. A/52/38/Rev.1 (1997), Part II para.152.

city. The government tries to have the people move out of the city by all means: denial of equal municipality's budget allocations, establishing industrial areas closed, bad access to roads and relocations of governmental offices and public services in the nearby Jewish settlements, instead of in the indigenous city.

*Main comments arising from discussion:*

- Recommendations: as reiterated in the Concluding Observations of the human rights treaty bodies, the State of Israel must end discriminate Palestinian localities in budget allocation; the UNESCO national commission should recommend Nazareth's Old City as a world heritage site; the state should reform policies and practices to ensure that the residents enjoy their right to live in adequate housing conditions in their city; the state should respect international standards concerning IDPs; it should engage a dialogue with the community representatives; and prepare a detailed plan for the benefit of all Nazareth residents in the support of equality with the neighboring Jewish cities.
- Some residents in Nazareth have the right to build houses, but there is no land to buy and build on, or very few at very high prices. This is why poor people suffer still more, and construction of houses and land cause a lot of social and political conflict.
- In general, there are contradictions between what we are supposed to have the right to do, like planning as the municipality did in 1997, and what we can actually do. The Israeli authorities have never approved or implemented any proposed physical plan for the city. Any house built out of the established rules can be demolished at any time under the order of any official representative of the State.

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### **Thematic analysis of the panel**

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The presentations suggested the hard consequences of intersectional discrimination against women, as also belonging to a segregated people or group of the population. Moreover, collective rights are violated as peoples or parts of the population—and, as such, the right to self-determination is specifically denied—and consequently, individual rights to housing and land are collectively violated. The seriousness and priority of treatment of collective rights violations lead to women's rights suffering disproportionately. Civil societies and NGOs rarely focus on them. The more-common theme of collective discrimination against the group (in this case, the indigenous people) always dominates, as the presentations themselves showed. This tends to make even harsher the specific impact of these living conditions

on women, while the more generalized social ills they may suffer become obfuscated and subordinated, if not all together forgotten.

A major issue is the nonrecognition and denial of rights of these people, especially when they are refugees and always have been refused to be granted IDs, not only from States but also from international agencies. In these cases, they do not exist for anybody, have no recourse to any legal or social services, and are also afraid to defend their cases and give information on their situation, so as not to be expelled because they are illegal. Women are all the more affected and vulnerable in these situations that all official papers are generally delivered and requested for any administrative recourse in their fathers' or husbands' names. This situation demands from the international agencies to reform themselves and adapt to current situations of violations of those people unrecognised and subjected to discrimination, especially the women. Some golden occasions to have the rights of these people recognised by the international mechanisms are often missed, but when discrimination is enshrined in the national laws, States do not apply international recommendations anyway. Moreover, other states rarely apply the needed economic sanctions and other "effective measures" as a means of remedial pressure. Recourse to national legal systems for people subject to discrimination, especially women, is difficult, and authorities often act with impunity. Discrimination is present in laws, authorities' and planning institutions policies, as well as in budget allocation at all levels. The situation addressed in the foregoing testimonies requires a structural correction.

These cases call for further awareness campaigns and legal advocacy at all levels. Actions need to seek the support of the local population, so as to counter the authorities' practices and policies of social casting. Land and property confiscation, house demolition and forced eviction—in other words a total physical and tenure insecurity as collective violations of all housing and land rights in general—are the main results of discrimination policies inscribed in state laws, whatever the basis of discrimination (religious, racial, political). As such, intersectionality among discrimination, segregation and violations of housing and land rights should be more -systematically addressed.

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### **Technical analysis**

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If most monitoring steps were rather well followed, the presenters did not give enough references to women and specificities on their entitlements of the right to adequate housing. Systematic assessment and listing of the consequences and obstacles of discrimination on women's rights to housing and land would be very useful.



The legal sources of rights and guaranties were also not sufficiently cited, but mainly because the major impediment coming, at the national level, from institutional discrimination and completely biased legal systems. This phenomenon constrains the possibility of finding guarantees in the national-level legal sources. Systematic references to the overriding principles that are *all* violated in these cases, as well as positive cases of international jurisprudence achieved so far, probably constitute the best opportunities to mount and defend domestic court cases and otherwise invoke the legal authority in support of the moral arguments and available data.

## Testimonies on legal obstacles

### Case 1: Hana, Palestinian inside the Green Line

In 1948, Israeli forces destroyed 531 Palestinian Arab villages as a function of transforming Palestine into Israel, a “Jewish state.” In 1965, Israel drew a plan with all cities and villages and the unrecognised ones are those that were not on this plan. They simply have been ignored. There are hundreds of unrecognised villages in the Naqab. This case focuses on 45 such villages inhabited by 600,000 Palestinian Bedouins. The inhabitants never had any official deeds to their land, but held them as a universally recognized customary system of tenure. It never occurred to them that they should register them. Because they are not recognised, the state (Israel) excludes them from all infrastructure services, even lacking public water hook-ups and access roads. In the period since 1985, Israeli authorities have built seven “concentration points” (or planned townships) for them to live in on the condition that the Bedouin surrender their land to the state and renounce all claims to their lands and villages. The purpose of this policy is to create more free space for the “judaization” of the Naqab (as also taking place in the Galilee). PM Ariel Sharon’s current plan is forcibly to concentrate as many Bedouins as possible in these seven *rekuzim*, and the budget allocated to the plan is all to bulldoze the villages and finish confiscating all Arab lands.

Women are particularly vulnerable and affected by the relentless aggravation of Bedouin living conditions, while the 45 villages linked under the Regional Council of Unrecognized Villages of the Naqab are resisting removal, house demolitions and confiscation of their lands. Women form the backbone of this resistance, as they are the guardians of the home and often the sole defenders against demolition crews that arrive when the men are away at work. Meanwhile, 90% of the girls leave school before 12<sup>th</sup> grade many children have to travel from one village to another to go to school, which is often far and there is no available transportation. This also concerns 60% of the boys. The government and the planning authorities, as duty holders, should change discriminatory planning laws and propose alternatives on a nondiscriminatory basis. NGOs and the international community also have an important role to play in pressing for equitable solutions.

#### *Main comments arising from discussion:*

- Israeli law entitles to compensation any citizen who had more than 40% of his land confiscated, but Palestinians almost never accept the confiscation of their lands nor any

compensation, as that would mean recognising and accepting this confiscation, and surrendering their legitimate rights on the land.

- The women who have been forced to live in the concentrations have lost all their points of reference. Nothing remains of the Bedouin way of life. Especially, inhabitants are not grouped by families and traditional kin groups anymore, and women do not feel free to move anymore as they used to.

### **Case 2: Haifa, Syria**

This is the case of a family whose daughters have been regularly subjected to sexual assault by their father. One was engaged and confessed it to her fiancée, he advised her to complain to the police, which she did before going to court.

Abuses needed to be proved, and the daughters went to the hospital for a medical examination of their case. Both were escorted by police who insulted and mistreated them, saying that the girls were not deserving of respect anymore since they were no longer virgins. Their brother took their father's side in the story, because he needed his father's financial support and worked in his factory.

The wife complained and asked for divorce but in Syria, divorced women are thrown away in the streets. The three women were morally ostracized and ended up changing their testimonies after 25 days, saying that they had illegal relations, because the social pressure was too hard to bear. The mother had to live again with the father, because she had no independent financial means. The younger daughter had to go to school and was harassed there, because the city is small and everybody knew the story. She was so ashamed that she underwent a nervous breakdown. They have been considered as prostitutes and completely socially outcast. The mother has no role at all anymore in the house and is fully dependant upon her husband. Women are often illiterate in Syria and they are not protected, even by the larger family, and not at all by the government.

#### *Main comments arising from discussion:*

- There are a lot of similar cases in Palestine, Jordan and everywhere. Sometimes, women and girls who have been raped are even killed, because their subsequent lack of virginity it is considered as a shame upon the family.
- The Syrian Constitution and legislation does not require husbands to provide their wives with adequate housing. Very often Syrian women have to do what their husbands

want and have no right to decide for anything. Civil society tries now to organise a bit, but efforts are difficult and slow, largely because Syrian laws and Constitution forbid the creation of any independent organisation, including formal affiliations with external networks.

- State should support or provide adequate shelters for these women, but one particular obstacle, in this region, is that women who live outside the family home are automatically ostracised. To achieve a minimum level of justice in such cases demands intensive human rights education and cultural transformation.

### Case 3: Karam, Egypt

This presentation concerns the policies of globalization and their effects on women's rights to housing and land. International human rights law does not contain specific articles on legal tenure of land, except for a few passages that are not effective nor binding. Trade agreements and treaties concerning free zones also lack such provision. In 1992, Egypt adopted free trade rules, including on land and housing, and enacted Law 96, stipulating that rent should be detailed in contracts. However, after this law went into effect, landowners arbitrarily increased rent prices as much as 13 times, which farmers could not afford. There was no prospect of recourse, because the tenants were bound by the contracts. This affected 450,000 people, who were already too poor to possess their own land, and have lost all security of tenure under this law. Lease contracts also used to allow farmers to plant the land, but it does not make any sense anymore, because landlords can expel them at any time, and periods of contracts became much shorter.

Moreover, a high level of violence is used against farmers to expel them from their homes and the lands they have been cultivating, sometimes for 50 years. The military also happened to kill some farmers who refused to give up their place, because they had worked and improved the land during their whole lives. All were expelled without any compensation. The solutions proposed until now are not adequate. Because of the 1992 reform, new conflicts and new types of violence have emerged in rural areas.

Women are not eligible for even the theoretical compensation provided in the law (but often not enforced). However, in numerous cases where their farmer husbands have become destitute and unable to repay outstanding agricultural loans (including those notoriously involving Agricultural Development Bank falsification of loan terms), police and bank officials have colluded to harass, beat and detain farmer wives as a means of coercing indebted farmers to surrender themselves. Such hazards

also face those women who are shouldering the added burden of maintaining the family under desperate conditions, while legislation and the globalized state ideology treat their entire class as redundant and disposable.

*Main comments arising from discussion:*

- If there are no provisions on land, those on food, water and housing might be used to support cases of violations of land rights.
- If a debt-burdened and now dispossessed farmer escaped and hid in advance of the bank/police pursuit of him, the women left at home would be subject to police arrest and abuse. In such cases, women typically do not know the reasons for their detention.
- Some farmers have submitted loan applications with the (public) Agricultural Development Bank, but interest rates and administrative costs to rent land are too high for farmers to afford. Under the new law, hundreds of thousands of farmer's land tenure is precarious, and prospects of repayment are far from certain.

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### **Thematic analysis of the panel**

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Most observations made in the previous theme on discrimination actually related also to the presentations and analysis of the cases on legal obstacles. In all cases, not only legal, but also social nonrecognition of the people affected in the cases constitute the core reasons for the denial of their rights. The behaviour of authorities, including police forces, against these people, even severely against woman, forms a major obstacle to the victims resorting to court and official procedures.

The possible effects of globalisation on land rights have been linked to show how neoliberal economic policies and enabling laws can negatively affect housing and land rights of a whole group of the population.

In all these cases, even if the situations are very different, the major challenge is to find possibilities to defend rights that are legally and/or socially denied. When national laws are against them, the people's only recourse is to prove their unconstitutionality, or resort to international mechanisms. The state, while failing or refusing to recognise and resolve obvious problems, may go the further step of preventing civil society to have any organized means to pose solutions, as in the Syria case. This behaviour should also be sharply addressed internationally as it poses obstacles not only to the respect for human rights, but

also impedes their protection, promotion and fulfilment where necessary: at the local level.

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### **Technical analysis**

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The descriptions of the situations in which the victims find themselves were fairly well detailed and documented, but lessons and further analysis that should constitute the next steps (quantifying losses/consequences, posing solutions, etc.) were often missing, as in most presentations. If the negative national laws and policies, as “antiguaranties,” were addressed, and as such constitutes the main obstacles to the resolution of the problems, the overriding principles, consequences especially material and on women except for case 2, were not. The proposal of possible actions also needs to be developed.

## Testimonies on militarization and HRAH

### Case 1: Fida, West Bank, Palestine

Israel used the Ottoman system to register land. Between 1948 and 1967, only 38% of the land in the West Bank could be registered. The Israeli planning system then followed British law and categorized the rest of West Bank land as agricultural, meaning that it is forbidden to build on it, or on an exceptional basis, with an authorization from Israeli officials. The planning authorities have limited as much as possible the villages' borders, so as not to exceed those of 1967. Since then, Israeli occupation authorities also have transformed land into military and security zones, and the inhabitants evacuated and their villages and homes demolished. Settler colonies, contrastingly, have expanded four-fold in the past decade, dispossessing the Palestinian owners of these lands. Israel also has created buffer zones between Israeli colonies and Palestinian areas, meaning another excuse to confiscate land. This led to shrinking of plots available to Palestinians, and to overpopulation. In 2002 only, 93 plots of land were confiscated.

Women are deeply affected by the general insecurity. The most vulnerable are those who lost their husbands in the conflict, because the whole burden of providing for the family has passed to them. Women have no means of protection and no independent economic resources. The Applied Research Institute/Jerusalem conducted a survey of 865 people, including 333 women, and found 38% of them had been displaced at least once: 27% were forced to leave houses because of war; 21% were victims of Israel's confiscation of land; 13% did not obtain permit for construction due to restrictive military orders; 11% had their house demolished, 53% of them were not notified, 60% were given security reason, and 20% no reason at all. After being displaced, 44% lived with friends; 22% in the same home when in some cases some parts have not been demolished; 19% rented other homes; 9% built a new home; 3% lived in tents; and 3% temporarily lived in shelters like schools till finding a place to stay.

#### *Main comments arising from discussion:*

- While Israel has signed all human rights treaties (except the Migrant Workers Convention) to date, it has been violating all its obligations under international law, including UN Security Council Resolutions 242 and 338, and The Hague Convention on the law of war, particularly Article 43, which prohibits and occupying Power from modifying the legal system in an occupied territory. That singular violation is the basis for Israel replacing the indigenous planning system and law with its own military government, which serves as

the mechanism for house demolitions and land confiscations throughout the OPTs.

- Israel and its Zionist “national” institutions—working without ratification or the approval from the Knesset, including the World Zionist Organization/Jewish Agency and Jewish National Fund are registered in more than 50 countries as tax-exempt charities, while dedicated to the implementation of population transfer and colonization as their principle purpose. Israel and these institutions are, of course, the first duty holder, but the UN, the United States, the Palestinian Authority, the other Arab governments, and NGOs are also responsible to various extent. All UN resolutions should be implemented, including through sanctions, embargos and other “effective measures.”
- Israel has been applying the same policies and using the same pretexts historically to confiscate land inside the Green Line, especially public purpose, which means that of the citizens who have “Jewish nationality” only. In Israel, “Jewish nationality” status is the basis for the enjoyment of economic, social and cultural rights. Indigenous Palestinian Arabs living in Israel have “Israeli citizenship,” which is an inferior status not conferring upon them those rights, including the human rights to adequate housing and land.

### **Case 2: Howeida, West Bank, Palestine**

I am Palestinian, and met and married a displaced Palestinian in Jordan. He moved to the United States to earn his living, but married there and never came back. I moved to the West Bank. He does not exist anymore for me and I never asked him for anything. I provided for everything for my sons and me since then. I have three brothers and sisters and two sons, and we first lived in their family home, but it is already small for them and we could not stay there long. We thus moved to the deserted and dilapidated house left by my husband.

The house was built on land jointly owned by four people; we do not have the documents proving ownership. It had no utilities, no sanitary services. We lived for two years in one room, then also in a small bathroom and kitchen that I managed to add. The nephew of my husband had a house on the same land just beside ours, and the four landowners gave up their rights by a proxy to the nephew. I tore down the house to build another modest home with the help of a loan from an NGO, but, because the land is not registered, I do not have any security of tenure. I already have paid US\$15,000 to build the house, knowing that I will not be able to register it without proper documents. I suffer a lot from the lack of privacy. Because of the Israeli military check points, I come



home late and have no place to rest. What will happen when my sons marry? I live the same experience of my mother, who has been moving between my brothers' houses, who also have small homes.

*Main comments arising from discussion:*

- The Israeli occupation forces are the main duty holder, supplanting the Palestinian state and self-determination unit. Palestinian courts are responsible too. The Arab countries provide some services for the Palestinian people, and NGOs do raise awareness enough. They all should urge people to demand their rights, including women to claim their right to inheritance, while also helping help people to confront the Israeli occupation.
- There are women institutions and NGOs, I work with one of them, but I never accepted to file a complaint against my husband. The society does not permit that. The municipality cannot force my husband to do anything, and the problem remains that everything is registered in his name.

### **Case 3: Muhammad, Bahrain**

There are 650,604 people in Bahrain, 62.5 % of them are Bahrainis. 32% of population inhabit 8% of the urban areas. Thus, the waiting list to request for houses is very long and consists of 50,000 requests for applications, according to 2003 statistics. Over 250 families were expelled abroad in 1981, packed in boats to neighbouring countries, and lost their lands and possessions. One of them was a family composed of a mother, three daughters, and one son. They were forced out of country without their papers confiscated (passports, IDs, birth certificates, etc.). They lived for more than 20 years out of their country. I married one of the daughters. We remained without identity and were in exile for long years. When the state declared a general amnesty in 2001, all went back to Bahrain. My wife has remained in Bahrain for two years to get back the residency, while I and my children are still in Iran, waiting. I have to stay abroad to earn a living, since we are not entitled to work in Bahrain. It is very hard to go back, because the country has completely changed and our children have started their education in Iran. We also asked to have our papers back, I managed, but my wife, as a woman, could not and cannot travel anymore at all. She is the main victim from the situation, suffering from poverty and isolation. In the same way, Jamal has three brothers, and two of them are married and live in the same room. We recently have applied for a house, but knowing we will have to wait for many years.

Another issue is that of farmers, native Bahrainis, who used to own land in 80 villages before the occupiers took over their lands

over a century ago. We have to fight for all our rights, from access to jobs and to land.

*Main comments arising from discussion:*

- Bahrain allows the Arab and other nationalities working in the country to earn the nationality after 15 years. Many naturalized foreigners actually have more rights than the indigenous Bahrainis. As some took over our lands and houses after we were expelled, we do not know anymore what belongs to whom.
- These problems are real and pressing, but are not widely known and not discussed in public, not even in Bahrain.
- The foreign occupation of vast areas of Bahrain is a taboo topic and remains unaddressed, even among civil society, in Bahrain.

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### **Thematic analysis of the panel**

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This panel was treating a very particular theme as the violations of housing rights were seen in the specific context of military occupation and militarism. The case of Bahrain falls into this category also, as approximately half of the island's landed surface is occupied by a complex of four United States military facilities, including two airbases. Part of the land poverty in the country, severely limiting housing solutions, arises from the foreclosure of lands under U.S. military occupation, however with the concession of the Bahraini ruling family.

As in the cases on discrimination and segregation, such an absorbing and dramatic context tends to have particularly severe consequences on women, including the subordination of gender issues and women's rights under the priorities of a pressing national crisis. Nonetheless, these three cases contained more details on than in many others. The presenters, as in all other cases, assumed that women are the centers of home and that the house is often the center of their lives, but without ever detailing what this relation is precisely, and consequently omitting to refer to the entitlements of the human right to adequate housing that were specifically violated in their cases, and without enumerating the various categories of losses and costs covered in the methodology.

In all cases, the essential step of detailing which entitlements of the RAH were the most affected was missing. Except in the descriptions of direct violations against them, of course, and in the cases of inheritance, the presentations did not make obvious the specific consequences on women and how the situations affected them differently than they would have affected men. For the

organizations that wish to defend women's rights in particular, and work on public awareness and human rights education about women issues, and especially their housing and land rights, this step will need to be developed much further. It should allow them to construct their cases more easily and with more-powerful effect. These improvements also would make it easier for the public to become aware and convinced of the importance of these issues.

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### **Technical analysis**

In general, systematically detailing each step of the monitoring system proposed during the training, namely the first ones that too often have been left out, was missing and should help people and NGOs to present their cases, but also to find for each a wider basis of solutions, including through often-necessary government-nongovernment cooperation. That would become more possible also with a better understanding and commensurate articulation of the state's obligations under treaty. Yet, as shown the one Egyptian example of a positive result, multiple strategies are absolutely essential to gather forces, divide and coordinate efforts, cooperate among diverse parties and strategize over the long-term, which is the actual duration of this struggle.



## Conclusion

### *Women, from silent losers to equal partners and citizens*

Following the days of consultation and testimonies at Alexandria, the Special Rapporteur reflected on the women's rights defenders' "tremendous strength and articulation" of struggles for women's human right to adequate housing and land in the Middle East region. The clarity of the message and the prevalence of obstacles to fulfilling this human right and need contrast with the majority of their States' treaty obligations to respect, defend, promote and fulfill women's human right to adequate housing and land.

In light of the binding duty of States in the region to play an active role in solving the housing and land rights crisis from which women disproportionately suffer, the participants agreed to a need for much more focus from civil society organizations and UN agencies on these issues. For numerous reasons, the region's States alone are not meeting their duties and the corresponding challenges.

At the same time, it must be said that some State laws, policies, and programs are more progressive than the social norms and institutions that discriminate against women's fair share of tenure security and foreclose needed protections. Globalization pressures and related militarization pose external obstacles to States seeking to ensure gender justice in housing and land in the region. While governments and nonstate actors scramble for resources, women are the most likely losers. The losses can be the consequence of multiple discrimination. The most vivid example

arises from the areas under colonization and/or foreign military domination. For example, the Palestinian women face a multilayered complex of discrimination under:

- An alien legal system that establishes special privileges on the basis of “nationality,” denying a range of economic, social and cultural rights to the indigenous people;
- The continuous confiscation of land and property, eliminating women’s traditional productive and public roles in family and community livelihoods;
- The socially conservative preservation instincts of a community whose existence is threatened;
- Economic disadvantages that disempower men and lead to increased tensions and culminate in domestic violence;
- Limited educational opportunities;
- Few economic and income-generating options; and
- A national-liberation logic that subordinates women’s liberation.

Variations of these factors prevail across the regional landscape, where foreign domination and underdevelopment are constant over-riding themes. When any community feels beleaguered, women lose the most. Women also lose out in the housing and land rights struggle where concepts of citizenship have yet to evolve; that is, where the enjoyment of rights and privileges are subject to ethnic, political or other nepotistic criteria. At the bottom of the economic and political pecking order, women are expected to remain silent nurturers and providers in the home. As the Special Rapporteur noted in his concluding remarks, the testimonies revealed a variety in forms of discrimination that coincide with a “culture of silence” about women’s housing and land rights crisis.

The main purpose of the Alexandria Consultation was to advise the UN Special Rapporteur through the testimonies of women’s housing and land rights issues across the region, but also to generate guidance for our States on how to meet their housing and land rights duties in a context of gender equality. The many problems identified in the Alexandria Consultation lent themselves to posing solutions based on some good practices available for local application. These involve housing and economic-development policies that need to be human centered with a standard of gender equality. The examples of positive practices emerging from the consultation included:

- Bahrain’s parliament proposing to ensure that allocated housing be registered in the names of both spouses;
- NGO provision of microcredit for women’s improvement of housing conditions; and
- Women’s collective action to address common problems, as an alternative to passive or individual approaches.

The recommendations arising from the Alexandria Consultation addressed needed action by both governmental and nongovernmental parties. They proffered advice for future actions that focused on the need to:

- Enforce the existing laws that protect women's housing and land rights,
- Uphold states' rights—and obligations—to regulate economic globalization,
- Ensure that privatization and other market policies do not restrict women's access to housing and land,
- Encourage women's interest groups to work more with housing groups, and *vice versa*,
- Seek creative ways to interact with United Nations agencies and mechanisms supporting women's human rights.

Like the Special Rapporteur, the women and men who participated in the Alexandria Consultation are contributors also to an emerging problem-solving culture in which blind discrimination and mute silence are no longer upheld as virtues. As ambassadors of human rights and gender justice, they bear witness to the material consequences of prejudice. In so doing, they have broken a deafening silence. Beyond the brave words, however, are the still-needed actions required to institutionalize rights and ensure their enjoyment in States for *all* their citizens.





# **ANNEXES**



**Regional Consultation on the  
“Women’s Right to Adequate Housing and Land”**  
in cooperation with UN Special Rapporteur on Adequate Housing  
and with collaboration and support from the  
United Nations Office of the High Commissioner for Human Rights  
*Bibliotheca Alexandrina, Alexandria, EGYPT 23–26 July 2004*

Working Agenda:

Part I: Preconsultation Workshop, 23–24 July 2004

Part II: The Consultation, 25–26 July 2004

***I. Preconsultation Workshop***

The training curriculum follows a logical track that applies the four basic messages of the human rights as:

1. a common heritage of humankind (based on human needs)
2. a common language among peoples and states (the law)
3. (remedial) means to defend ourselves and other from harm, and
4. (preventive) tools to build a better community, society and world.

**Day One, 23 July 2004**

***09:30–10:00 Registration***

**Session I: Introduction to the Legal Concepts and Framework of the Human Right to Adequate Housing**

**10:00–10:20 Overview of program, materials, goals and objectives (JS)**

**10:20–10:30 Presentation of self-introduction exercise**

**10:30–10:45 Participants prepare their concepts of “adequate housing”**

**10:45–11:30 Participants introduce themselves and their concepts**

**11:30–12:30 From human needs to human rights: the legal sources of the human right to adequate housing (CM & MK)**

***12:30–13:30 Snack break***

**13:30–15:00 The elements of the human right to adequate housing as a monitoring framework: The “Tool Kit” (JS)**

**15:00–15:30 Tea break**

**Session II: “Unpacking” and Applying the Right to Adequate Housing and Gender: The Elements and Monitoring Framework**

**15:30–16:30 Nondiscrimination and gender equality in the right to adequate housing (MK)**

**16:30–17:20 Contextualising the Tool Kit and Loss Matrix in a Gender Perspective (JS)**

**17:20–17:30 Concluding remarks and discussion (MK)**

### **Day Two, 24 July 2004**

**Session III: Applying the Framework**

**10:00–11:15 Linking violence against women and violations of women’s human right to adequate housing (CM)**

**11:15–12:45 Using the HRAH Framework in Problem-solving Strategies (JS & MK)**

**12:45–13:15 Snack break**

**Using the UN Human Rights Mechanisms: Overview of the UNSR-Right to Adequate Housing’s mandate and reports**

**13:15–14:00 UN Special Rapporteur on adequate housing: mandate and reporting (MK)**

The course applies a training-of-trainers approach, whereby participants will be asked to work in four thematic groups and prepare a presentation on aspects of their theme within the monitoring framework, to identify legal elements of the HRAH that have been violated and to be thorough in their identification of violations, victims, consequences, duty holders and probable solutions.

Possible Themes:

- Domestic violence and housing rights
- Armed/ethnic conflict, militarism, foreign occupation
- Discrimination and segregation in housing and eviction
- Legal and cultural obstacles to women’s land, inheritance and property rights, or
- Globalization and its effects on women’s housing and land rights

**14:00 – 14:30 Preparing and Selecting Participant Testimonies for Presentation (JS)**

**14:30–15:30 *Snack break***

**Session IV: Exchanging Cases and Strategies**

**15:30–17:30 Presentation of participant cases, followed by discussion (JS, CM)**

**17:30–18:00 Concluding remarks and discussion (MK)**

***II. The Consultation***

**Day Three, 25 July 2004**

**10:00–10:15 Welcome Address (CM)**

**10:15–11:30 Inheritance rights and violations of women’s human right to adequate housing (AS)**

**11:30 – 11:45 *Snack break***

**Session V: Testimonies to Special Rapporteur**

The testimonies will be in the form of a group of speakers where each presenter has 15–20 minutes to present the elements of her case. Presenters will be grouped according to five themes.

**11:15–13:45 Testimonies on domestic violence**

Presenters: ...  
Panel: MK, CM...

**13:45–15:30 Testimonies on armed/ethnic conflict, militarism and fundamentalism**

Presenters: ...  
Panel: JS, FB...

**15:30–16:30 *Tea break***

**16:30–18:15 Testimonies on discrimination and segregation in eviction and housing**

Presenters: ...  
Panel: FB, MK...

**18:15–18:30 Wrap-up**

**Day Four, 26 July 2004**

**Testimonies to Special Rapporteur, Session V, continued**

**10:00–12:00 Testimonies on legal and cultural obstacles to land inheritance and property**

**rights of women**

Presenters: ...

Panel: MK, CM...

**12:00–12:15 Tea break**

**12:15–14:00 Testimonies on globalisation and women's rights to adequate housing & land**

Presenters: ...

Panel: JS, MK...

**14:00–15:00 Snack break**

**Session VI: Identifying trends, patterns, obstacles and future strategies for advocacy (MK & TBA)**

**15:00–16:00 Based on the testimonies and related discussions, participants and resource**

**persons will draw out:**

1. trends, patterns and obstacles in the linkages between VAW, inheritance, RAH and land;
2. potential strategies (effective existing strategies; future individual and collective strategies; use of UN mechanisms, etc.)
3. evaluation of the consultation.

**16:00–16:30 Tea break**

**Session VII: Conclusions (public/media)**

**16:30–17:45 Summarising the outcomes of the consultation (MK, TBA / participants)**



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**Materials (Arabic)**

1. Program
2. List of participants
3. CHR resolutions pertaining to women rights to housing and land and research
4. The SR's reports on women's rights research and Palestine mission (2003)
5. Women and RAH research overview
6. SR's questionnaire on women's Right to Adequate Housing
7. SR on violence against women reports 2000 and 2003
8. International Convention on the Elimination of All Forms of Discrimination against Women (ICEDAW)
9. Declaration on the Elimination of Violence against Women
10. CESCR General Comments 4, 7, 9 & 15
11. Elements of the right to housing and land and their sources (from HLRN Tool Kit)
12. Bibliography
13. Background material on women's right to land: ILO: “Access to Assets”
14. Background material on women's inheritance rights: Women Living under Muslim Law survey of inheritance rights in Muslim countries
15. Background material on women migrant workers in the Arab world: HRW report on human rights and living conditions of women migrant workers in Saudi Arabia (excerpts)
16. Relevant Concluding Observations on participating countries from CRC, CEAWAW, CERD & CESCR
17. Exercises
18. Problem-solving options: “Action Menu” from HLRN Housing Rights ToolKit
19. “Thaqub fi al-Jidar” (Cairo: EIPR, 2002)
20. Al-Atfal wa al-Haq fi al-Sakan al-Mula'im: Dalil al-Masadir al-Qauniyya al-Dawliyya (Cairo: HLRN, 2004)
21. Copies of overhead slides and Powerpoint presentations (to be distributed after each session)
22. HLRN Travel Policy and logistical arrangements





## HLRC HOUSING RIGHTS MONITORING TOOL KIT<sup>1</sup>



Entitlement	Source	Overriding principles	Guarantee	Threats, obstacles	Victims, Vulnerable	Impact, consequences	Duty holder	Action, intervention <sup>1</sup>	Follow up
1. Security of tenure, Freedom from dispossession 2. Public goods & services 3. Environmental goods & services, incl. land & water, Safe environment 4. Affordability, finance 5. Habitability 6. Accessibility (physical) 7. Location 8. Cultural appropriateness 9. Information, capacity & capacity building 10. Participation & self-expression 11. Resettlement 12. Security (physical) & privacy	<i>International customary law</i>  <i>Human rights &amp; other treaty law</i>  <i>Regional human rights instruments</i>  <i>Emerging norms</i>	<i>Self-determination:</i>  <i>Nondiscrimination</i>  <i>Gender equality</i>  <i>Rule of law</i>  <i>Nonretrogression</i>  <i>International cooperation</i>	<i>Ratification of international and regional human rights instruments</i>  <i>Constitution, national legislation, regulations, municipal ordinance.</i>  <i>Policies</i>  <i>Programs</i>  <i>Institutions<sup>2</sup></i>  <i>Budgets</i>	No law  Bad law  Inadequate enforcement  Globalization pressures  Privatization of services  Armed conflict  Natural disaster  Discrimination	<i>Who? Vulnerable and affected groups</i>  <i>What type?</i>  <i>Why?</i>	(See subtool: <i>Loss Matrix</i> for method of quantifying costs)  <i>Material (victims):</i>  <i>Nonmaterial (victims):</i>  <i>Material (others):</i>  <i>Nonmaterial (others):</i>	<i>Responsible parties:</i>  <i>Primary:</i> State authorities  <i>Respect:</i> avoid depriving <i>Protect:</i> prevent others from depriving <i>Fulfill:</i> aid the deprived and take steps  <i>Secondary:</i> IFIs MNCs Local authorities Private agents Community	(See <i>Strategic Action &amp; Solution Menu</i> of > 100 options with 'subtools') <i>Human rights education:</i> <i>Gender training:</i> <i>Legal education:</i>  Social mobilization  Legal action  Cooperation with UN bodies  Media work Etc.	<i>Evaluating the action:</i> Monitoring progress Indicators of accomplishment Assess impact   <i>Following up the situation:</i> Measure achievement Determine next move

<sup>1</sup> What, by whom & when. See "Task Chart."

<sup>2</sup> Bonding and bridging institutions. "Institutions," in this sense, involve the rules of the game under which formal and informal activity is conducted, and include public and private institutions, collective practices and norms, as well as changing norms (e.g., brought about through the youth, technology, economic or demographic shifts, and other emerging behaviours). According to Douglas North, Nobel laureate, institutions are "humanly devised constraints that shape human interaction."