

Interlinkages between
Violence against Women
and Women's Right
to Adequate Housing

**Proceedings of the Asia Regional Consultation on
'The Interlinkages between Violence against Women and
Women's Right to Adequate Housing',
held in cooperation with the UN Special Rapporteur
on Adequate Housing
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Asia Pacific Forum on Women, Law and Development (APWLD)

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Habitat International Coalition - Housing and Land Rights Network (HIC-HLRN)

Centre on Housing Rights and Evictions (COHRE)

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LIST OF ACRONYMS AND ABBREVIATIONS

APWLD	Asia Pacific Forum on Women, Law and Development
CAT	Convention Against Torture and other cruel, inhuman or degrading treatment or punishment
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
COHRE	Centre on Housing Rights and Evictions
CRC	Convention on the Rights of the Child
DV	Domestic violence
HIC-HLRN	Habitat International Coalition – Housing and Land Rights Network
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	International Covenant on Economic Social and Cultural Rights
IDP	Internally displaced person
IFI	International financial institution
IMF	International Monetary Fund
IWRAW-AP	International Women’s Rights Action Watch – Asia Pacific
MNC	Multi-national corporation
OHCHR	Office of the High Commissioner for Human Rights
RAH	Right to adequate housing
SPDC	State Peace and Development Council
SRAH	Special Rapporteur on adequate housing
SRVAW	Special Rapporteur on violence against women
UDHR	Universal Declaration of Human Rights
UNCHR	United Nations Commission on Human Rights
VAW	Violence against women
WAO	Women’s Aid Organisation (Malaysia)
WCAR	World Conference Against Racism, racial discrimination, xenophobia and other forms of related intolerance
WSSD	World Summit on Sustainable Development

PREFACE

This consultation was the first 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. The regional consultations have been a unique mechanism for bridging that gap. This has occurred through the training of groups working on women's rights and housing rights on preventing violations as well as monitoring and advocating for women's right to adequate housing, using the Habitat International Coalition-Housing and Land Rights Network Tool Kit. It has also occurred through the individual, and often intimate and courageous testimonies, provided by grassroots women and organisations working at the local and national level to inform UN processes.

The testimonies were particularly informative, received from a range of women in Asia including, migrant domestic workers in Hong Kong and Malaysia, victims of domestic violence in Mongolia and Georgia, fisherfolk women and indigenous hill tribe women in Thailand, Dalit and nomadic women in India, plantation workers in Sri Lanka, women in Indonesian urban slums facing eviction and refugee women from Burma. Each testimony explored the specificities of the context in which women were facing considerable violence and discrimination in their efforts to claim their rights.

Using the concept of violence against women, as an inroads to understanding the ways in which women experience violations of their right to adequate housing, was incredibly powerful as a lens for understanding the contexts within which women's rights are violated. What was most apparent was the predominant use of violence against women, as a tool of patriarchal systems and structures, which prevented women from claiming their right to housing and perpetuated a culture of silence over women. Many women continue to live in a culture of fear and insecurity, perpetuated by the use of violence and the impunity of State and non-State actors for these actions. What was also recognised was the critical impact that inadequate housing can have in terms of being a contributing factor to making women more vulnerable to gender-based violence.

Grounding the understanding of women's rights and violations in women's experiences brought to light the need to apply a substantive equality approach to gender equality and an intersectionality approach to non-discrimination. Through these approaches, these principles are then able to address structural as well as individual inequalities, and address discrimination resulting from the compounded effect of different sources of discrimination. Thus the experiences of women shared during the consultations can contribute significantly to strengthening standard setting at the national and international level. This has been most evident in events that have taken place since the consultations in Mongolia, where, shortly after, Mongolian women's groups successfully negotiated the adoption of the Domestic Violence Bill, which included provisions to protect women's right to adequate housing.

Throughout the ongoing violations, women demonstrated their strength and tenacity and their continuous efforts to reassert their agency. This was reflected in the strategies

identified for the local, national and international level, in the areas of legal strategies, state regulation, economic strategies, social mobilisation and awareness raising, research, and direct action.

These consultations commenced a process that has since continued to extend to other regions of the world, including the Middle East, North Africa and the Pacific. What has been most fruitful from these consultations has been to see the increased linkages between housing rights networks and women's rights networks across the world. All those involved have vowed to continue the spirit of collaboration. It remains to be seen how the world's governments respond to the deep-felt anguish voiced by women worldwide as they express their struggle for the right to housing and land.

Miloon Kothari
United Nations Special Rapporteur on Adequate Housing
November 2004

EXECUTIVE SUMMARY

Introduction

“Home is ... a space for sharing, debating, confronting, forgiving and reconciling”

Ferdousi Akhter, Bangladesh

The Special Rapporteur on adequate housing, Mr Miloon Kothari, has long valued the contribution of civil society organisations to his work. Civil society organisations have assisted in providing information on a wide range of issues, which has strengthened the Special Rapporteur’s reports and findings. Engaging with a wide range of civil society groups has enabled him to access both specific cases of housing rights violations and identify emerging trends and patterns of housing violations.

Equally, for civil society organisations, engaging with mechanisms such as Special Rapporteurs has been a useful means of directly raising issues within the United Nations system. When the issues are reflected in the Special Rapporteur’s reports and the UNCHR forum, they become a critical tool and space for advocacy and lobbying at both the national and international levels.

In 2005 the Special Rapporteur on Adequate Housing (SRAH) will submit his second report on women and adequate housing to the UNCHR. This report will make an important contribution towards advancing women’s human rights.

APWLD, IWRAP-Asia Pacific, COHRE and Habitat International Coalition, believe this report can be utilised most effectively by having women’s groups from Asia Pacific contribute to it. To this end, and in preparation for his 2005 report on women and housing the SRAH, Mr Miloon Kothari, had an Asia regional consultation with civil society groups on 28-31 October 2003. The consultations were held with civil society groups and affected women in Asia on the theme, “Interlinkages between Violence Against Women and Women’s Right to Adequate Housing”.

What were the aims of the consultation?

The aims of the consultation were two-fold. Firstly, it intended to train participants on the use of Habitat International Coalition - Housing and Land Rights Network’s (HIC-HLRN) Tool Kit with a special emphasis on gender equality and violence against women frameworks. The Tool Kit is used to monitor violations of the right to adequate housing (RAH). Secondly, the consultation aimed to collate testimonies of women’s experiences that highlight the interlinkages between violence against women (VAW) and violations of women’s RAH.

Who came to the consultation?

The consultation was organised by APWLD, International Women’s Rights Action Watch - Asia Pacific (IWRAP-AP), Habitat International Coalition - Housing and Land Rights Network (HIC-HLRN), Centre on Housing Rights and Evictions (COHRE), in close cooperation with the Office of the High Commissioner for Human Rights (OHCHR).

Approximately 40 participants attended the workshop. There were representatives from Malaysia, Georgia, Sri Lanka, Thailand, Philippines, Indonesia, India, Nepal, Bangladesh, Bhutan, Hong Kong, Korea, Burma, Mongolia. The participants included migrant domestic workers, victims of domestic violence, fisherfolk, Dalit women, refugees, nomads, indigenous hill tribe women, plantation workers and women working on evictions in urban slums. Also in attendance were representatives from research organisations, human rights commissions, women's human rights organisations, housing rights organisations and members of APWLD's Violence Against Women Task Force.

What was discussed during the consultation?

To meet the dual aims of the consultation, it was divided into two parts:

Part I: Pre-Consultation Training (28-29 October)

Part II: Consultation (30-31 October)

The central purpose of the Pre-Consultation Training was to strengthen work on women's human rights to housing and land by providing participants the tools and opportunity for advocacy, and to ensure the development and diffusion of professional skills at monitoring violations, constructing effective arguments and posing solutions to problems and violations. The specific objectives were:

- To present the methodology for monitoring the human right to housing through practical application of the HLRN (Housing and Land Rights Network) Tool Kit and other conceptual tools, especially the frameworks on gender equality and VAW;
- To help participants articulate within the human rights framework cases of discrimination against women in the housing sphere, including multiple discrimination, in relation to poverty and livelihood, land use, property and inheritance issues, globalisation, development, fundamentalisms, militarisation, and intersectional discrimination;
- To help participants share the monitoring and analytical skills and strategic lessons learned by their communities.

In the course of the two days training participants were informed of the legal sources of the right to adequate housing in international law, and the specific elements of the right to housing identified both in international human rights law and by the SRAH. Participants were then introduced to the HIC-HLRN tool kit and loss matrix, and learnt how to apply these tools for the purposes of monitoring and advocating on women's RAH. Critically, participants were also presented with a framework for applying a gender equality and VAW analysis to the right to adequate housing and how to incorporate this analysis when using the tool kit and loss matrix.

(See *Annex A* for the agenda of the pre-consultation training).

The specific objectives of the consultation were:

- To examine the interlinkages between violence against women (VAW) and women's Right to Housing (RAH) in order to promote substantive equality for women and thereby inform the normative content of the RAH.

- To create a platform to exchange approaches and strategies so as to mutually strengthen women's groups working on VAW and women's RAH, for the advancement of women's human rights.
- To provide preliminary findings and recommendations for the report of the UN on adequate housing (SRAH) for 2005 on women and housing, state accountability and strategies for follow-up.
- To examine issues of state and non-state actors' accountability with respect to VAW and women's RAH.

The consultation was divided into five themes, within which participants presented testimonies to a panel of resource persons. The themes were:

- domestic violence;
- armed/ethnic conflict, militarism and fundamentalism;
- discrimination and segregation in eviction and housing;
- legal and cultural obstacles to land, inheritance and property rights of women; and
- globalisation.

Within their testimonies participants were requested to: (1) highlight the interlinkages of RAH and VAW in terms of the causes, impacts/consequences, threats, obstacles and strategies; (2) identify points of accountability of state and non-state actors; (3) identify the cross-cutting and intersectional discrimination faced by vulnerable groups; and (4) share positive examples of interventions made by governments or civil society in their country.

Based on the issues presented in the testimonies and the responses and discussions that followed, Rea Abada Chiongson, IWRAW-AP and Joseph Schechla, HIC-HLRN, two of the resource persons, summarised the trends, patterns and obstacles identified during the consultations on the interlinkages between VAW and women's RAH.

(See *Annex A* for the agenda of the consultation.)

The consultation concluded with a keynote speech on the correlation between violence against women and women's right to adequate housing in Afghanistan. It was presented by Dr Sima Samar, of the Afghanistan Human Rights Commission. The findings of the consultation were then shared with members of the public and media who were invited to attend the closing session.

What were the main findings of the consultation?

Through the examination of the testimonies and analysis undertaken in the discussions, common agreement was reached on some key trends and patterns about the interlinkages between VAW and women's RAH. These included:

- Women continue to live in a culture of fear and insecurity, perpetuated by the impunity of violators and duty holders. Women's identity and self-determination continues to be denigrated. The lack of a secure place to live aggravates this already serious situation and contributes to increasing violence against women.

- VAW and women's RAH are connected in the sense that a violation of one can be a cause and/or contributory factor for the violation of the other. A violation of women's RAH or an act of VAW can result in a similar effect and impact on women, in terms of deprivation, disadvantage and discrimination against women. A violation of RAH can also be a form of VAW. Conversely, VAW can be a form of violation of RAH. The nature of violence commonly experienced by women, particularly in situations where their RAH is violated, creates an urgent need for the interlinkages to be addressed.
- The common cause for violations of women's RAH and for women's experience of violence is the inferior status of, or subordinate role attributed to, women. Thus, it is important to focus on structural inequalities. The substantive equality and gender discrimination framework propounded by CEDAW can help to recognize and address structural and other forms of violations to RAH and VAW (e.g., addressing systemic discrimination against single women which leads to stereotyping, prevents them from accessing housing, and makes them vulnerable to harassment from landlords). In this regard it is important to ensure that interventions include temporary special measures and creating enabling conditions for women.
- Applying an intersectional approach, which recognises discriminatory experiences as a result of gender and other factors (e.g., migrant, caste, class, racial, tribal and nomadic identities, etc.), provides an opportunity for more relevant and comprehensive interventions and for consolidated action among groups working with and among various identities.
- The international human rights standards and states' corresponding obligations can be strengthened by integrating the different models of non-discrimination and equality used in the conventions (e.g. CEDAW, CDESCR and CERD) and applying the best possible standard. In this best possible standard, women's rights are not marginalised, overlooked or de-prioritised but reaffirmed, enhanced and strengthened. Working with a wider range of international human rights instruments creates a broader legal base. This can lead to a more rigorous analysis of accountability, contributing to more comprehensive solutions.
- Additional aspects to the normative content of the RAH, were identified in relation to:
 - the concept of housing needs to include different forms of accommodation including shelters, detention centres, refugee camps, factory dormitories, where all elements of the RAH must equally apply, including ensuring security of the person from the different types of harassment and violence women suffer.
 - the element of security, where the predominant use of sexual violence as a tool for oppressing, controlling and silencing women was found to play a significant role in threatening women's security. Security must include physical, mental, psychosocial and spiritual security, reflecting the different kinds of violence against women. Furthermore, the concept must be based on a life-cycle approach—recognising how the different forms of violence impact on women's security from the time they are born until death.
 - the element of privacy needs to be broadened so it can also be invoked to address other forms of VAW and not just domestic violence. This is especially necessary for addressing structural violence or contexts of violence within which insidious and

subtle violations occur (e.g., when husbands are allowed, with impunity, to evict wives from the home for arguing against them, the threat becomes real even for women who are not directly threatened by it because of the knowledge that such practices are accepted and allowed).

- the element of access to services needs to explicitly include communications (i.e., phone, internet), which is an essential service for people in the home, particularly in terms of enabling women to have access to public services, health, education, information, and in terms of accessing protection in situations of domestic violence.
- Monitoring women's RAH and VAW and reporting violations are important for advocating the strengthening of the rule of law and improving access to effective remedies. The revised versions of the HIC-HLRN Tool Kit and Loss Matrix are important tools in this respect (e.g., recognising violators and duty holders separately).
- Addressing VAW together with an adequate housing and an economic, social and cultural rights frameworks can assist in surfacing and addressing:
 - Structural inequalities;
 - Women's rights to own or inherit land and property;
 - State accountability for causes and consequences of VAW and for the conditions necessary to inhibit VAW;
 - Common issues such as poverty and gender discrimination; and
 - Different sectors supporting each other's advocacy for women's rights.
- Developing multidisciplinary interventions will provide technical, moral and legal solutions. To do this it is important to work with different groups: activists, lawyers, statisticians, economists, policy analysts, planners, architects, etc.

The consultation also raised important questions which require further research, including:

- Analysing the implications of space and density on domestic violence;
- Identifying the factors in housing, land, property and inheritance that could stem the cycles of violence women face;
- Systematically collecting empirical data that demonstrates the interlinkages between RAH and VAW, particularly on different vulnerable groups of women; and
- Analysing the impact of states' reservations on CEDAW on women's RAH.

Finally, the consultation identified practical means by which different sectors of civil society could be strengthened conceptually and methodologically through collective strategising. Some of the actions participants identified for follow-up included:

- ◆ Strengthening and further developing the HIC-HLRN tool kit/loss matrix and its application to monitor the interlinkages;
- ◆ Using international treaties and mechanisms (e.g. Special Rapporteurs) more strategically to ensure accountability and reduce impunity of violators;
- ◆ Increasing cooperation and solidarity between women's groups working on VAW and RAH;
- ◆ Sharing positive strategies for addressing violations of women's human rights;

- ◆ Applying the normative framework of RAH to allow for preventive approaches to pre-empt violations linked to VAW and RAH;
- ◆ Advocating for the ‘right not to be evicted’;
- ◆ Law reform and implementation, including ensuring domestic violence legislation addresses women’s rights to housing beyond access to shelters;
- ◆ Training of judiciary, lawyers and police on gender awareness, women’s rights, RAH and VAW;
- ◆ State regulation of private actors (e.g. companies, religious institutions, employers of domestic workers);
- ◆ Reporting to national institutions;
- ◆ Social mobilisation/awareness raising;
- ◆ Responding to the SRAH’s questionnaire.

What is covered in this report?

This report is not intended to be a detailed and comprehensive record of these consultations, but rather a concise summary of the key issues, findings and strategies that emerged from the consultations.¹ To this end, this report will briefly explain the SRAH’s mandate and work to date. The report then outlines the frameworks within which the discussions on the interlinkages between VAW and the RAH took place, i.e., the RAH framework, VAW framework and non-discrimination and substantive equality framework. The report will also summarise the testimonies presented, and highlight the patterns, trends, obstacles and strategies identified for addressing the interlinkages between VAW and the RAH.

There are several useful documents annexed to the report, including the agenda of the consultations, the tool kit and loss matrix models, examples of how the groups applied the tool kit to specific situations, the testimonies in full, individual interviews with participants and a summary of the responses to the consultation’s evaluation form.

¹ A complete record of the proceedings is available from APWLD on request (e-mail: apwld@apwld.org).

USING UN HUMAN RIGHTS MECHANISMS: OVERVIEW OF THE UN SPECIAL RAPPORTEUR ON ADEQUATE HOUSING'S MANDATE AND REPORTS

By Miloon Kothari, Special Rapporteur on adequate housing

“All problems arise from our homes and all problems from outside the home come back to our homes. It is a place where women must have security and dignity and be happy, supported by the rule of law, as reflected in the constitution and international human rights”

Ketevan Dadunashvili, Georgia

Mandate of the Special Rapporteur

In 2000, the Commission on Human Rights resolution 2000/9 decided to appoint a Special Rapporteur “whose mandate will focus on adequate housing as a component of the right to an adequate standard of living” as reflected in international instruments.

This wording of the SRAH's mandate gave the opportunity for broad interpretation. Working within a human rights approach the SRAH has focused on the indivisibility of all human rights. This enables him to explore elements of the RAH as it connects with other human rights (e.g., rights to water, safe environment, security of home, etc.). For instance, the notion of indivisibility has enabled him to explore the very strong link between VAW and RAH – particularly in terms of right to security in the home, security of the person and freedom of movement. It has also enabled him to explore the impact of global economic policies, such as the privatisation of water.

Legal basis of the right to adequate housing

Treaty bodies face the limitation of working within the scope of the treaty they are monitoring and working with the states that are signatories to the treaty. Such limitations are not placed on Special Rapporteurs. Special Rapporteurs draw their authority from UN charter. In this respect they have the scope to work on any country in the world.

The right to adequate housing has been recognised in the following international human rights instruments:

- ◆ UDHR Article 25.1
- ◆ ICESCR Article 11.1
- ◆ CEDAW Articles 14.2 (h) and 16.1(h)
- ◆ CRC Articles 16.1 and 27.3
- ◆ ICERD Article 5 (e) (iii)
- ◆ Habitat II Conference (1996, Istanbul)

As non-discrimination is an important overarching principle that applies to the RAH it is important to note:

- CEDAW Article 14(2) - which refers to non-discrimination against rural women in terms of their right to housing;

- CRC Articles 16 (1)/27(3) – which address both housing rights and freedom from violence for children, including the girl child.
- ICERD Article 5(e) (iii) – the CERD Committee has addressed non-discrimination on several grounds in its deliberations and the recognition of the right to housing in the treaty has enabled the committee to look specifically at this right. Article 3, which historically was used to condemn segregation and 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 for the RAH and VAW:

- ICCPR has strong provisions on security of the person, which can be linked to the RAH and VAW.
- CAT Article 16(i) – recently the CAT committee has used this article to find that forced evictions are a form of “inhumane and degrading treatment”, which will be very useful for arguing the link between VAW and RAH.

Approach of the Special Rapporteur

The Special Rapporteur, through his reports, has attempted to further clarify the content of the RAH 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 are critical for the RAH:

- Indivisibility of all human rights;
- Non-discrimination – the SRAH has attempted to identify in his reports the steps states need to take to reduce their obligation, based on their legal commitments;
- Minimum core obligation – the CESCR Committee, in its general comment 4, has identified what are the minimum obligations State have to meet to ensure the RAH (i.e., the floor below which no one is allowed to fall). The Committee has defined this in terms of identifying the elements of “adequate housing”. The SRAH in his reports, has used the HIC-HLRN tool kit and questionnaires to articulate with more specificity and depth what “adequate housing” means, i.e., the nature of the obligation on states to immediately address the basic housing needs of the population and to refrain from carrying out any deliberately retrogressive measures and the practice of forced evictions.
- Progressive realisation – within the economic social and cultural rights framework, the principle of progressive realisation goes hand-in-hand with the principle of minimum core obligations. The principle requires that in addition to meeting the minimum level of implementation of the right, states are obligated to move as expeditiously and effectively as possible towards the full realization of the right to adequate housing.

- State obligations (respect, protect and fulfill) – respect requires states to abstain from violations; protect requires states to prevent the violations; and fulfill requires states to facilitate and provide through legal and policy measures, sufficient emphasis on the full and progressive realization of housing rights, through a series of active measures. While many states may have taken action to respect or protect rights, few states take concrete actions to fulfill rights, and greater focus has to be placed on this aspect of state obligation.
- International cooperation – This principle stems from one of the underlying reasons for the formation of the UN and the multilateral system. It has been identified in the UN Charter, the UDHR and in several of the human rights treaties (i.e., CRC; ICCPR; and the strongest provisions are contained in the ICESCR). This principle obligates states to ensure that either individually, or in inter-governmental forums (e.g.; World Bank, WTO) they do not breach their obligations. No action or policy may be adopted which could inhibit states' ability to implement human rights commitments towards its citizens. Further, the international community is obliged to remove such constraints on developing countries in pursuing their obligations towards their citizens. This includes financial support and solidarity and fraternity measures. In his reports the SRAH has outlined what this principle means in the context of adequate housing.

Activities of the Special Rapporteur

The Special Rapporteur follows several methods to fulfil his mandate, as outlined below.

◆ Reporting to the UNCHR

The SRAH submits an annual report to the UNCHR on the RAH, identifying the obstacles being faced globally and what needs to be done by the international community. When requested, the SRAH also submits separate reports to the UNCHR which analyse specific situations and make recommendations. For example, the UNCHR has a separate report on women and adequate housing in 2005

◆ Global advocacy

The SRAH has participated and made statements in such inter-governmental forums as Istanbul +5, WCAR, WSSD and in civil society forums such as the World Social Forum.

◆ Country missions

These are investigative missions to countries, where the government invites The SRAH. The SRAH has conducted country missions to Palestine (January 2002), Romania (January 2002), Mexico (March 2002) and Peru (March 2003). Recently, Brazil and Iran have agreed to have country missions. In Iran the SRAH will look at women's rights to land inheritance and property.

Upon completion of a mission the SRAH produces preliminary recommendations which can be used by civil society in their advocacy. The SRAH also submits a formal report to the commission, to which the government must respond. A draft of

the formal report is sent to the government and civil society groups involved before it is finalised.

UN agencies are supposed to monitor implementation of the Special Rapporteur's recommendations and they should work more closely with local civil society groups towards this end. There are also CHR officers who monitor the implementation of SRAH recommendations. The preliminary recommendation and the formal report are also available to treaty bodies for use in their monitoring of that country. Civil society can play an important role in publicising the Special Rapporteur's recommendations and using the recommendations as a basis for monitoring the state's implementation of its legal obligations. The Special Rapporteur's reports can also be a useful source for civil society groups that are preparing parallel reports for treaty bodies.

There are no specified criteria for identifying countries in which missions are conducted. Matters that are taken into consideration include:

- conditions in the country;
- level of civil society activity, i.e., are there local groups/international groups working on the issue;
- geographical balance, including developed countries, e.g., Canada, Romania and transition countries;
- what is being done on the country situation by other parts of the UN system (e.g., are concluding observations being implemented often become the basis for the mission), or by other Special Rapporteurs (e.g., Special Rapporteurs have started to coordinate to target specific countries with consecutive visits, and so are able to approach issues from different perspectives).

◆ Working with treaty bodies

The SRAH has had dialogues with CESCR, CRC, CEDAW and CERD Committees. The SRAH collaborates with treaty bodies to ensure that standard setting is consistent across the different UN treaties and mechanisms. The SRAH also monitors country situations by following up on treaty body recommendations during country missions and by asking questions of countries that are reporting to treaty committees.

◆ Working with UN agencies

- The SRAH works with UN agencies such as UNIFEM, UNICEF and UN-HABITAT, both within the UN and in country missions. The SRAH has especially worked closely with UN agencies to assess the impact of the privatisation of civic services on women.

It is also important to remember in addition to the SRAH there are many other country-based and thematic rapporteurs, e.g., the Special Rapporteur on violence against women. Increasingly, joint work is being done between Special Rapporteurs, e.g., joint urgent actions, joint statements for global conferences, joint missions, etc.

◆ Developing research agendas

Ideas for research are gathered from consultations such as these. Reports on research undertaken are included in reports to the Commission.

◆ Working with civil society

Mobilising civil society groups to address the RAH has been an important means of raising awareness of the RAH and accessing information on RAH violations. Where possible the SRAH has also tried to incorporate training on the tool kit. These consultations are a positive example of such work.

◆ Urgent actions

For urgent actions the SRAH has written communications to individual governments on behalf of specific cases (e.g., letter to the prime minister/president on forced evictions). The SRAH focuses on policy-oriented steps the State might need to take in order to be consistent with its human rights obligations. Such communications with the government require the government to report back to the UN. Often such communications are accompanied by a high media profile, which places further pressure on the government to respond.

Civil society groups seeking an urgent action can send a request to the Geneva officer. A form has been developed and is available at the following website: www.unhcr.ch/housing

Women and Adequate Housing Report 2005

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 recognised that women face discrimination and violations of their right to housing and land around the world and that there is a corresponding need for action at both the international and national levels. The UNCHR resolution further requested that the SRAH submit a preliminary report on those issues that need to be considered for women's right to housing.

The SRAH submitted his preliminary report on women and adequate housing in 2003. 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 increasingly delimits the fulfilment of women's RAH. The report highlighted particular groups of women who are affected and 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:

- ◆ Women-headed households
- ◆ Widows
- ◆ Women from indigenous, minority or descent-based communities
- ◆ Women living under occupation
- ◆ Women who have been forcibly evicted
- ◆ Women who have faced domestic violence
- ◆ Women who have faced ethnic, armed conflict

- ◆ Children (girl-child, street children, orphans)
- ◆ Elderly women
- ◆ Women living in extreme poverty
- ◆ Women with disabilities
- ◆ Women with HIV/AIDS²

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 that the SRAH submit a second report on women and adequate housing in 2005. The resolution also requested that 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 responses to the questionnaire. 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. The first consultation was held in East Africa in 2002 and the Asia regional consultation is the second one. Regional consultations will also be held in Latin America and the Caribbean, other sub-regions of Africa and Europe.
- Seek cooperation from treaty bodies.

SRAH Questionnaire

The questionnaire has been prepared by the SRAH to solicit information on women and adequate housing from states, local authorities, civil society, and UN agencies. The information collated will contribute to the report on women and adequate housing to be submitted by the SRAH to the Commission on Human Rights in 2005, pursuant to resolution 2003/22. The questionnaire has also been developed for utilisation as a human rights education and learning tool to explain the comprehensive nature of RAH to promote women's equal rights to housing, land, property and inheritance.

The questionnaire is available at <http://www.unhchr.ch/housing>.

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

² During the consultations participants noted that both migrant and domestic workers should also be added to this list.

- ◆ International treaties recognised in domestic law – to what extent are they recognised in the constitution or in judicial review of laws
- ◆ 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 these problems.

The second part of the questionnaire focuses on 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:

- Participation refers to how women are part of the decision-making process, asks for examples of both obstacles and good practices;
- Resettlement seeks information on displacement, refugees and compensation. The loss matrix is a useful tool for assessing the extent of damage for compensation claims;
- Access to remedies focuses on the formal and informal legal system e.g., Panchayats (village councils), paralegals, community dispute resolution, etc.

In many of these areas there are links to violence, which need to be brought out through the questionnaire.

Focusing on the elements of the RAH in the questionnaire 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 level.

The SRAH, through his comprehensive human rights based approach, his specific focus on women's rights, and his proactive engagement with civil society has become a critically important factor for women's groups wanting to intervene in the United Nations system, in order to strengthen their advocacy at the national and international level.

“UNPACKING” WOMEN’S RIGHT TO ADEQUATE HOUSING IN SITUATIONS OF VIOLENCE AGAINST WOMEN

“I am fighting for the right to have a house with a door I can lock.”

Dholi, nomadic tribe, India

“Home is not just four walls or a temporary situation – but also a feeling, which incorporates our past. Most importantly, the right to security of person is essential to almost everyone’s idea of home. Home is an essential need and a human right.”

Joseph Schechla, Egypt

The elements and monitoring framework of the right to adequate housing

By Joseph Schechla, HIC-HLRN

Background to the Right to Adequate Housing

Whether it is violence against women or housing violations, RAH is about human rights. Human rights are the common heritage and common language of men and women, reflecting the human needs of people. They are more than just morals and concepts; they are the culmination of the moral and legal dimensions. Human rights determine the way states should behave towards their citizens and other states. They are substantive tools that can be used to protect and promote and alleviate deprivation.

The 1970’s and 80’s saw the emergence in many countries of national campaigns, movements and struggles which identified housing as a human right. During the national campaign for housing rights in India in the late 1980’s and 90’s, hundreds of interviews and meetings were conducted in vernacular languages to collate what housing meant to people. What the campaign found was that for people, a house is a place to belong, a secure place to live – it is much more than just four walls and a roof.

The global situation of housing conditions continues to be very serious.

- ◆ 600 million people in urban areas and 1 billion people in rural areas live in overcrowded or poor quality housing
- ◆ There is inadequate provision of water and sanitation
- ◆ People are living without security of tenure and under threatening living conditions
- ◆ 100 million are homeless people
- ◆ Women and children are disproportionately affected

Similar campaigns took place in Brazil, parts of Africa and the United Kingdom. The collective experiences were taken by Habitat International to discussions at the United Nations (UN) that were held for the UN Conference on Human Settlements(1976), the Global Strategy for Shelter (1988-2000) and the World Conference on Human Settlements, Habitat II (1996).

The legal source of the RAH

The Universal Declaration of Human Rights (1948) is one of the first statement of principles of the United Nations. Article 25 of the declaration recognises 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”.

However, 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 conventions. Conventions are generally a guide or standard which, when ratified, place justiciable obligations on states.

The first legal source in treaty law to the RAH is in Article 11 of the ICESCR (ratified by 147 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, recognising 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 realisation of this right.

Other rights in the ICESCR (e.g., right to work, right to food) are articulated in detail and the corresponding obligations are better understood than the right to housing. However, the right to housing is referred to only by one word in Article 11. It has been important therefore to clarify the obligations in further detail. This has been done by civil society movements who have successfully taken cases of violations of the RAH to the political (e.g., UNCHR) and legal bodies of the UN (e.g., treaty committees).

The UN Committee on Economic Social and Cultural Rights (CESCR Committee), which monitors the Covenant on ESC rights, through its review of states' implementation of the covenant noted that there were widespread violations of the RAH and a lack of clarity on the obligations for the RAH in the covenant. Further, they were impressed by the literature and testimonies collated through the civil society campaigns. As a result in 1991 they adopted General Comment 4, which provides a legal interpretation of the nature of obligations under this right.³ In General Comment 4 the committee identified seven essential elements of the RAH, the composite of which form the right to adequate housing:

³ A/43/8/Add.1.

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., hill tribes, migrant workers, etc. As owners, persons have the right to give their houses to their children. The law must acknowledge both collective and individual ownership, reflecting indigenous and tribal people's modes of ownership.

B. Accessibility to services, materials, facilities and infrastructure

This can include access to building materials, roads, energy, sanitation, education, health, land, water. Access to land is a critical issue for indigenous peoples, 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 the RAH.

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 are not met/affected. Financial services or markets need to be regulated to ensure they are not discriminatory. The market for building materials also needs to be regulated to ensure they are not sold under a monopoly.

D. Habitability

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

E. Accessibility

This refers to physical accessibility. The State has an obligation to act and refrain from acting in ways that affect accessibility e.g., the State can not build a road or wall in front of a house's access way. In Palestine, the building of security walls has prevented people from accessing their lands and the building of trenches has stopped humanitarian services accessing homes. The accessibility needs of people with specific needs also needs to be addressed by ensuring there is sufficient housing in the market to cater for them, e.g., elderly people, people with disabilities, people living with HIV/AIDS.

F. Location

The location has to be conducive to the enjoyment of civil services and livelihood, e.g., allow access to land for livelihood. Location has been an important issue in slum relocations. For example, slum dwellers are forced to leave due to city beautification projects and are relocated to places far outside of the city where they

can no longer access sources of livelihood because they are forced to travel long distances which they cannot afford. The issue of distance particularly affects women who risk facing different forms of violence when travelling alone. A common consequence for women is a loss of livelihood because they cannot travel long distances.

G. Cultural adequacy

The housing provided must accord with the cultural needs of a group. However, care needs to be taken when addressing cultural adequacy, that other forms of discrimination, including against women, are not perpetuated.

The CESCR Committee adopted a second general comment on housing (No.7)⁴ in 1997, this time focusing on forced evictions, which they identified as a gross violation of the right to housing. The Committee 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.”

SRAH definition of the RAH

Based on the campaigns and the work of the CESCR committee, the SRAH has developed an overall definition of the RAH, which tries to capture the breadth of people’s experiences of housing. The definition remains a working definition, which can be amended to reflect further experiences of housing. The SRAH’s definition of RAH is:

“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”.⁵

Congruent Rights

In addition to understanding the elements of the RAH identified in CESCR General Comment 4, it is necessary to understand the congruent rights (i.e., rights and freedoms which are stand-alone rights and freedoms but connect with the RAH) to ensure the indivisibility of rights is recognised.

Some congruent rights related to the RAH include:

- Right to life
- Right to health, e.g., lack of sanitation and water in housing can result in health hazards
- Right to culture

⁴ E/C.12/197/4

⁵ 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 recognised right of elderly to housing in its General Comment 6.

- Right to property, e.g., in Indonesia, on the basis of not owning property, you may also be denied other rights such as the right to vote.
- The right to property is only recognised in the UDHR (Article 17),⁶ although recently the CEDAW Committee has also begun including right to property in its discussions.
- Right to livelihood (Art 11 of CESCER)
- Right to information – without information people cannot make choices. For example, information about development projects can affect people’s ability to protect their RAH.
- Right to development – Amartya Sen discusses the right to development in terms of human entitlements of both capacity and capability.
- Freedom of movement – in terms of choosing where to live and in terms of sustaining adequate housing.
- Right to privacy and family life – this prevents the State from intervening arbitrarily in people’s homes. However, this does not prevent the State from intervening in situations where people’s human rights are violated in the home. A lot of infringements of women’s rights take place within the family, but the right to privacy does not allow women’s rights within the family to be infringed.
- Right to an adequate standard of living
- Right to gender equality
- Freedom from torture, and “cruel and inhuman or degrading treatment or punishment” (Article 16, CAT). There is a growing movement to recognise that violation of housing rights can be seen as a threat to 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 Committee Against Torture recognised that economic closure and demolition policies contravene the CAT.

In international law there is no convention on housing, but there are provisions for the right to housing in different conventions. NGOs have tried to flesh out the interpretation of those provisions. In doing this, NGOs have realised that it is very important to see housing not

⁶ The reason why the right to property is not recognised in the conventions is because the ICCPR and the ICESCR were developed during the cold war. At that time the Eastern bloc was strongly advocating for economic, social and cultural rights, as they saw these being the physical needs needed by all humans. However, the Western bloc was strongly advocating for civil and political rights, such as the right to vote, which they saw as the hallmarks of democracy. Within this split, property was seen as part of the capitalist ideology, so although it could have been recognised as an economic, social and cultural right, the Eastern bloc did not prioritise its inclusion in the CESCER. Such divisions in ideology can still be seen to operate today: for example, there is no right to health in the USA Bill of Rights.

just as an economic, social and cultural right, but to take the ‘indivisibility approach’ which incorporates civil and political rights as well. This indivisibility approach has been incorporated into the tool kit (see below for an explanation of the tool kit), which also tries to include specific entitlements, or bundles of entitlements that cut across the categories of rights. Such an approach allows greater exploration of issues such as VAW within the context of violations of the RAH.

Monitoring the RAH

HIC-HLRN along with other NGOs working on housing rights violations have developed the “Tool Kit” and the “Loss Matrix” to identify, monitor, report and advocate on violations of housing rights and the structural causes of the violation. The tool kit also leads into an analysis of the impact of the violations at the level of the home, community, state and international agencies and identifies relevant actions and interventions. The loss matrix, which is used in conjunction with the tool kit, assists in identifying the material and non material costs of the violation, to those affected as well as others.

The tool kit and loss matrix are based on the seven elements of the RAH, but incorporate a more detailed and comprehensive list of elements.⁷ These include:

1. Security of tenure
2. Public goods and services
3. Environmental goods and services (water, land)
4. Affordability (finance)
5. Habitability
6. Accessibility (physical)
7. Location
8. Cultural appropriateness
9. Freedom from dispossession – right to be compensated when being relocated for any investment made in the maintenance of the home
10. Information, capacity and capacity building (i.e., individuals and communities must have access to relevant data about laws, policies, programmes and development projects impacting on their housing; they must also have access to technical assistance and training to enable them to realise their rights – the State has a responsibility to empower people to realise their rights)
11. Participation (Article 25, ICCPR) and self-expression (Article 19, ICCPR) – although traditionally these elements are more closely linked with civil and political rights, they are also essential to the realisation of the RAH, and need to be applied without discrimination.
12. Resettlement and movement – e.g., right to compensation. This is an essential element of the RAH for refugees. Francis Deng’s guidelines on internally displaced persons recognises the issue of forced resettlements⁸ and the World Bank has also

⁷ The SRAH’s Questionnaire is based on this expanded list of elements identified by HIC-HLRN. This commonality provides the basis for the strong correlation between the questionnaire and the tool kit. Therefore the tool kit is a useful methodology to follow when reporting on the SRAH’s questionnaire.

⁸ Internally displaced persons: Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to the UN Commission on Human Rights resolution 1995/57 (E/CN.4/1996/52).

- developed guidelines for resettlement.⁹
13. Safe and healthy environment
 14. Security (physical) and privacy – this is key element at which VAW and RAH intersect.

*HIC-HLRN Tool Kit*¹⁰

The tool kit is a methodology for monitoring, which can be used for assessing the scale of the violation and the scale of realisation of the RAH, as well as other human rights.

The methodology of the tool kit is located within the rights identified in international human rights treaties. Therefore the starting point is the right and the associated violation, rather than the range of possible issues. Focusing on the right and states' obligations enables NGOs to hold states, as the legal body, accountable for regulating the behaviour of state and private actors.

There are nine key steps to the tool kit, which can be seen in the table in *Annex B*.

1. Entitlement

The conceptual definition of the right (i.e., as defined in international human rights instruments)

2. Sources

The sources of the right can be found in:

- Legal sources (e.g., ratified or non-ratified treaties and standards that are in the process of being developed)
- Popular sources (Montreal declaration on ESC Rights/ International Charter on right to cities)

3. Over-riding principles

These are human rights principles that apply to all rights and to all states. They include:

- non-discrimination
- gender equality
- self-determination¹¹

⁹ The World Bank guidelines are not legally binding because they are only applied within the context of a contract, between a multilateral agency and a State (i.e., if the contract was between two States the Vienna Convention on the Law of Treaties would have applied, which calls for the observance of human rights in the preamble).

¹⁰ The Tool Kit will need to be updated in light of the findings of the consultations, to ensure that the discrimination and violence women face within violations of their housing rights are comprehensively identified.

¹¹ Joseph Schechla explains that the right of all people to self-determination is recognised in Article 1 of ICCPR and ICESCR. Under international law this has primarily referred to political or territorial independence (see General Assembly resolution 1514(XV), 14 December 1960). The CERD Committee clarified in General Comment 21 that self-determination of peoples should also be understood in terms of the "internal aspect, that is to say, the rights of all peoples to pursue freely their economic, social and cultural development without outside interference". The Special Rapporteur on adequate housing, in applying the principle of self-determination to the right to housing under the ICESCR, has spoken of the right to self-determination in terms of "The extent to which concerned individuals and communities are able to exercise an effective role in determining the terms by which all elements of their right to adequate housing are realised."

- rule of law (state obligation)
- progressive realisation/non-retrogression (Art 2, CESC)
- international co-operation

4. Guarantees

International level guarantees, e.g., treaties ratified by the State concerned, national level guarantees – constitution, national laws, national courts, national human rights institutions, other national institutions, non-state institutions, civil society, government

To this extent it is important to understand that in addition to the international law understanding of self-determination in relation to nations and peoples, self-determination has a local and community-based expression as well.

As a community-based right it is founded on the understanding that self-determination is a community "need" and, consequently, a "right" insofar as its absence leads to an erosion and violation of a bundle of individual, stand-alone rights and can lead to the deprivation or demise of a community as such. Due to the human consequence of the deprivation, collective self-determination as the right of communities is necessary, even if they are not internationally legally recognized as a "people" or "nation". A possible avenue for exploring this notion is the "internal self-determination unit," being used on a case-by-case basis under international law. It could conceivably apply to an ethnic minority, indigenous group, or a community of urban poor, particularly if their survival and/or well-being is threatened and their right to self-determination is a requisite for the realization of other rights (e.g., right to adequate housing). (See *Study of Discrimination against Indigenous Peoples*, E/CN.4/Sub.2/1986/7/Add.4, by Martinez-Cobo which identifies four criteria for indigenous groups to satisfy to constitute a community with the right to claim external or internal self-determination - (1) predate the influx of "others," (2) possess distinct cultural attributes, (3) occupy an identifiable territory and (4) identify itself as a people/community having the right to self-determination). The international law definition of what constitutes a 'community' is: "A group of persons living in a given country or locality having a race, religion, language and tradition of their own and united in the identity of race, religion, language and tradition in a sentiment of solidarity, with a view to preserving traditions, maintaining their form of worship, insuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other." (Permanent Court of International Justice, *The Greco-Bulgarian "Communities,"* Advisory Opinion No. 17, 31 July 1930 (Leyden: Sijthoff, 1930), p. 21.)

On this basis it can be argued that, both "communities" and "nations/peoples" hold the right and responsibility to determine their own habitat, the essence of a people and/or community's survival and sustainability with dignity in its dwelling place.

It has also been argued that self-determination can have an individual articulation. Women's groups have discussed self-determination in terms of the right of women to make decisions about their own bodies, particularly in relation to issues arising under reproductive and sexual rights. Radhika Coomaraswamy talks around this through the concept of women's 'autonomy' in relation to aspects of customary and religious law and practice that prevent women from being in a position to make decisions about their lives. She argues that the concept of 'autonomy' is related to choice, but also recognises the social, economic and political constraints and attempts to maximise women's power within those realities, i.e., choice within an economic social reality as per the SALC inquiry into customary law, which accepted that for women to have freedom of choice in marriage and polygamy their economic independence needs also need to be assured by removing aspects that prevent them from enjoying economic resources of the family. (R. Coomaraswamy, "Identity within: Cultural Relativism, Minority Rights and the Empowerment of Women", *The George Washington International Law Review*: 2002; 34, 3; ABI/INFORM Global, p 509).

policies, government programmes, national budgets (e.g., analysis of budgets can assist in assessing whether there has been progressive realisation or retrogression);

Any national level guarantees in place should be consistent with a state's international obligations. To ensure this, it is important to evaluate national mechanisms (e.g., national housing policy), to assess the extent to which international obligations are being met and to identify the gaps. A guideline for assessing policies has also been developed within the tool kit.

Where the State has not signed a specific convention, the source of the right may be found in other treaties that the country has signed or in the national constitution. Further, most principles identified in the conventions are also reflected in the UDHR, which although not a convention is seen as binding in a customary sense by all UN members.

5. Threats, barriers, obstacles, contributing factors and causes¹²

Examples include:

- The failure of the constitution to recognise the right could be an obstacle.
- The failure of the State to ratify a treaty or to have reservations on a treaty could be obstacles.
- Lack of enforcement of laws can be a barrier.
- Lack of public awareness/lack of political will can also be barriers.
- Social norms and values that perpetuate discrimination and equality, exclude certain groups, can be contributing factors and causes.
- Environmental factors can be barriers as well, for instance, lack of resources.

To identify threats, obstacles and barriers, it is useful to develop an inventory of what is needed to ensure the right is realised and what aspects of the inventory are not present.

6. Victimization, vulnerability

Victimization refers to who is affected. To have an accurate and comprehensive assessment of who is affected and how they are affected, it is important to be aware of current and historical differences in groups, based on gender, class, caste, etc. The emphasis should be on including details of victims, including numbers of people who are affected.

Vulnerability refers to those who are susceptible to a violation of their rights. For example, a widow who is thrown out of the home, and not protected by the law, is made vulnerable to violence.

7. Impact, consequences

It is important to quantify the impacts, particularly in terms of the costs, for the victim and for those around the victim, i.e., collateral damage. For example, when a house is demolished, there may be other houses effected by the increased density.

The HIC-HLRN Loss Matrix is a tool used to identify all the potential loss. It

¹² In the pre-consultation training, participants identified the need to also cover the contributing factors/causes in this section of the analysis.

includes material and non material impact on victims and the material and non-material impact on others. For example, in the case of evictions it is important to identify all related costs e.g., cost of home, cost of travelling to school from the new home, etc. It is a valuable exercise to undergo when litigating for compensation, to assess the level of compensation required.

8. Duty holder and violator

When examining violations experienced by women, it is important to distinguish between the violators and the duty holder. This will ensure that neither is able to absolve itself of responsibility for the violation and that both structural and individual redress is obtained.¹³

The primary duty holder for the realisation of human rights is the State. Where a State has ratified human rights conventions, then the State has obligated itself as a duty holder to protect, promote and fulfill those rights. The duty is both a positive duty (to take action) and a negative duty (to prevent or restrain action from being taken). The State has the responsibility to avoid deprivation; to protect from deprivation; and to assist the deprived. The State has the duty to regulate the behaviour of both state and non-state actors, in regard to the right. In the context of globalisation, the application to non-state actors is important given the range of international bodies (e.g., World Bank, World Trade Organisation, Multi-National Corporations) that are having an input into state laws, policies and programmes. This range of non-state actors can be held accountable both through the State and, where relevant, as funders of programmes.

There are different levels of duty holders who can be held directly accountable at different points. It is important to know which part of the State is the duty holder and be as specific as possible. For example when monitoring an eviction it is important to record the individual State representative's name and position details.

9. Action/intervention

It is important to monitor in both a preventive mode and a remedial mode, but each will require different interventions. When planning an intervention, develop a multi-pronged strategy and create a strategic plan that identifies who, what and when.

This tool kit has been used by HIC-HLRN for writing fact-finding reports (e.g., Slum Delhi Resettlement Report) and writing parallel reports for the CESCR Committee on the RAH, right to education and right to health.

The same criteria used in the tool kit for assessing violations can also be used for assessing good practices, but may require a different interpretation. It is also possible to develop new criteria for assessing best practices. Similarly, the tool kit can be used to make a case not only after the violence is done, but also proactively; monitoring can be done to prevent violence and create change.

¹³ At the pre-consultation training, when the tool kit was applied to situations of violation where women are also experiencing violence, the importance of identifying both the violator and the duty holder emerged.

The tool kit is intended to be used flexibly and selectively, depending on the issue, to go into greater or lesser details. It can be used to analyse each element of the RAH, or it can be used to assess the RAH as a whole, or even to assess several congruent rights, depending on the monitoring requirements. The methodology is relevant at all levels – home, community, national and international.

HIC-HLRN Loss Matrix

Making a case to seek redress for a human rights violation requires a combination of moral arguments, legal authority, and quantification of the deprivation. The loss matrix is a tool for quantifying the loss.

International human rights obligations place specific responsibilities on states. When these responsibilities are not met, the State incurs costs in rectifying the wrong. Quantifying the deprivation forms the basis for any claim for compensation/retribution.

The purpose of this matrix is to help determine the value of losses that victims of housing rights violations incur. Using this tool can assist in the various necessary stages of proper monitoring and resolving specific violations regarding the right to housing.

The matrix assesses costs in four main areas:

- Victim's material costs
- Victim's non-material costs – social standing
- Others' material costs – public cost, social costs
- Others' non-material costs

See *Annex C* to see the loss matrix table which identifies the kinds of costs that can be assessed within each category.

For each area of loss it is important to identify what method is used to quantify the loss (e.g., for loss of land, is the replacement value or reproductive value used?). This makes the process of quantification transparent and defensible if used in litigation.

The quantification can happen individually or collectively. If the monitoring is done pre-emptively, this information can be collected in anticipation of the violation. For example, if the community is harassing a family, this should not be monitored after the fact, but pre-emptively (e.g., collecting receipts for the cost of the house and any work done on it).

It is also important to ensure that all aspects of the violation are quantified. For example, in case of eviction it is important to include the value of the contents of the home, the volunteer labour contributed to maintaining and developing the home, and what it would cost to replace the home, with its added value. The resulting significant amounts that slum dwellings can cost have an empowering effect on a family being evicted, who can show the actual financial value of what they are losing, even though others may see their dwelling as having no value. It is also important for governments to realise that there is a significant cost involved in replacing slum dwellings.

When assessing the costs, care should be taken to consider the short- and long-term impacts. For long-term impacts, accumulative costs over a period of time can be included. For example, the traumatic impact of violence used in evictions can have inter-generational impact, which can be calculated as projected losses.

It is also important to assess the public costs. For forced evictions this can include the cost of the demolition, the planners, the bulldozers, the resettlement, civil unrest, etc. The non material public cost could be the bad publicity, which undermines the legitimacy of the State.

The tool kit was developed as a monitoring tool for the RAH. Parallel monitoring tools have also been developed by women's groups working with CEDAW to address gender discrimination. The methodology used by IWRAW-AP under its Monitoring Guide, for example, uses as starting point (1) indicators of disadvantage and disparity faced by women. It proceeds to identify (2) contributory factors to these manifestations of discrimination, its (3) effect on women and the (4) full range of states' obligations under international law. The monitoring guide then requires the identification of (5) current state interventions, its effectiveness and its gaps. This methodology enables the crafting of recommendations for advocacy and becomes the basis also to critique current areas and direction of NGO advocacy. Groups which have followed this approach have found it very useful when addressing violations related to gender discrimination.

In applying the RAH tool kit to situations where women's RAH is violated there emerged a space to see how the different tools used in the RAH and CEDAW conflated, and where they differed. This showed the strengths and weaknesses of each tool, and highlighted the areas where using elements of both methodologies could strengthen either approach. For example, the CEDAW approach gives more emphasis to equality in fact and affirmative action measures, whereas the RAH approach has more commonly recognised a formal equality approach (i.e., providing the same rights to adequate housing as men have for women, without fully recognising the specific contexts in which women experience housing rights violations, or the specific needs of women). (See below for detailed explanations on the different models of equality.)

Non-discrimination and gender equality in the right to adequate housing

By Rea Abada Chiongson, IWRAW-AP¹⁴

The distinct but closely-related principles of non-discrimination and gender equality are two of the overarching principles which must be satisfied for the right to adequate housing to be fully realised. In the context of women's right to adequate housing, meeting these principles is critical.

Both the principle of non-discrimination and the principle of gender equality have been identified in several international instruments, which include:

¹⁴ Part of this presentation is based on "Building Capacity for Change: A Training Manual on the Convention on the Elimination of All Forms of Discrimination against Women", IWRAW-Asia Pacific, 2001.

- UN Charter – Preamble “equal rights of men and women”; Article 1 “respect for human rights and for fundamental freedoms for all without distinction as to... sex...”
- UDHR Article 2 “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. “
- ICESCR Article 3 “The State Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.
- ICCPR Article 3 “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”

Despite the existence of these articles on non-discrimination and gender equality, widespread gender discrimination has persisted. So in 1979 a specific convention, Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), was adopted to provide conceptual clarity on gender discrimination and how to implement it at a ground level.

Gender Equality

While gender equality has been widely recognised in international human rights instruments, difficulty in its implementation exists because people have different models of, or approaches to equality. For example, the different possible responses to a law prohibiting women from working at night illustrate the different approaches to equality.

1. Formal equality/sameness approach

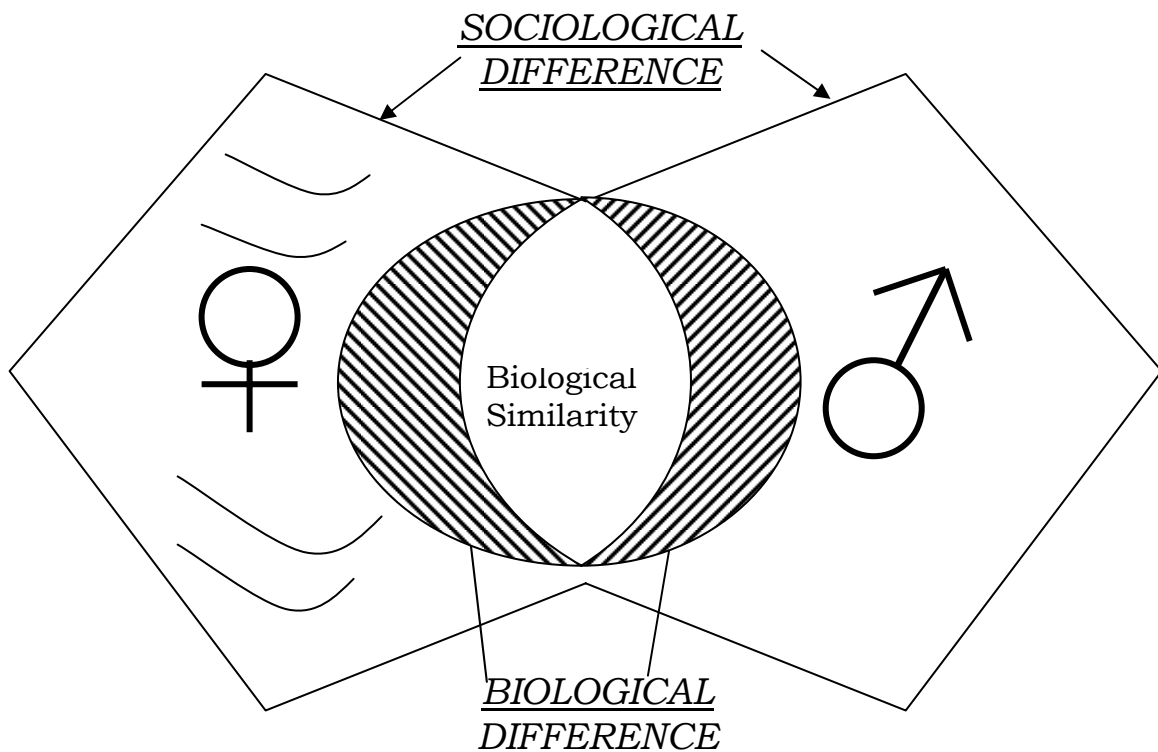
This approach is reflected in the response that if men are allowed to work, women must also be unconditionally allowed to do so. In this approach the focus is on giving the same treatment for men and women. However, it fails to consider that it might not be safe for the woman to work at night, or she may not be able to work because there is no one to look after her children. Thus, there is an expectation that women can go and work at night, without an understanding that women might be more vulnerable to violence than men or that women are burdened by child and family-rearing expectations. The differences in the situation of men and women are not taken into account. Women’s equality is not just about sameness but also about recognising differences, both biological and sociological.

The diagram below shows that men and women have biological similarities as well as biological differences. However, a bigger area of difference is sociological difference. These are differences that arise from social construction of the sexes. It is important for any approach on equality to recognise the differences, especially sociological differences.

The sameness approach does not recognise the biological and socially-constructed differences between men and women. It places an additional burden upon women to compete with the male standard, or otherwise be seen as weak. It also exposes women to danger. For example, if a woman walks down the street late at night to make a point that if

men can do it so can women, other people in the street see her as a woman and will apply the social constructions on women, e.g., she is characterised as a loose woman, “she should know better than expose herself to danger”, “she is asking for it”, etc.

DIAGRAM: Sex and Gender¹⁵



2. Protectionist approach

This approach is reflected in the replies that state we should prohibit women from working at night to protect her and ensure her safety. It places a blanket restriction on women, preventing them from being able to make a choice. Under this approach, women are perceived as weak, and the response is to restrict them, rather than recognise their vulnerability on account of stereotypes and discriminatory environments. Rather than facilitating movement towards equality, this approach perpetuates stereotypes of women’s weaknesses and thus their inequality. This approach should be distinguished from protective approaches that are undertaken to enable women to enjoy their rights, e.g., sexual harassment laws, laws against VAW.

¹⁵ Source: Building Capacity for Change: A Training Manual on the Convention on the Elimination of All Forms of Discrimination against Women. IWRAW-Asia Pacific, 2001

3. Substantive equality approach

This approach recognises the biological and socially-constructed differences between men and women and also recognises the socially-constructed differences between different groups of women due to other factors such as class, caste, race, ethnicity, etc.

It focuses not just on de jure equality but also looks at de facto equality. It seeks to ensure:

- equality of opportunities
- equality of access to opportunities
- equality of results.

In the example of laws against working at night, the substantive approach would recognise that women need to be safe, but that they also have the right to work. The emphasis is placed on correcting the environment rather than the woman (i.e., instituting enabling conditions). This approach would focus on making sure the environment is safe by contextualising safety within women's experiences.

Substantive equality applies not just between men and women, but also between women of different groups (i.e., intersectionality). Substantive equality recognises the intersectionality of discrimination as experienced by different groups of women.

Due to the discrimination women face, an enabling environment and temporary special measures are required to enable women to have equality of opportunities, equality of access to opportunities and equality of results.

The substantive model of equality outlined in CEDAW has been applied by a number of women's groups, including those working on VAW, but has not been as widely recognized by groups working within the CESC approach to housing rights. However, CEDAW's substantive equality approach is applicable to both civil and political and economic, social and cultural rights and their interconnectedness. It does not look at these rights in isolation from each other. For example, women's civil and political exclusions are often linked to their lack of economic, social and cultural rights, so women's groups have had to address violations from both ends. So, for example, women's NGOs working on domestic violence address both the right to life and aspects of physical and mental integrity as well as the equal right to property, economic opportunities, etc.

Non-Discrimination

Equality in itself is not a guarantee, but needs to be addressed alongside non-discrimination. Provided below is a framework for recognising discrimination in its differing manifestations.

A framework for recognising discrimination

The CEDAW definition of non-discrimination (Article 1) is a useful approach for recognising and addressing discrimination. It is from this definition that this framework for recognising discrimination is derived

1. Direct/Indirect Discrimination

Discrimination may be direct or indirect. This is encapsulated in, among others, the phrase, “which has the effect or purpose” in CEDAW Article 1. This looks at both the intent and the impact/effect/result.

Examples:

- Intentional or direct discrimination: being dismissed from work for becoming pregnant;
- Unintentional or indirect: in Bangladesh, a law states that those who own and manage ponds can participate in an aquaculture project. The law at first glance is gender-neutral. However, as women are not allowed to inherit property, they cannot access collateral they need to purchase a house and pond, as a result, women do not have ponds. Furthermore, when they marry, women move to their husband’s village and thus cannot even manage a pond. As a result, only men can participate in the project. Therefore, though the law did not ‘directly’ discriminate against women it was discriminatory in its effect;

Another example is from a steel mill in Australia, which used a gender-neutral policy of “first retrenching those who were most recently employed”. As a result, most women were retrenched because previously the mill had refused to employ women and had only changed its policy ten years ago to allow women to be employed. So women were generally employed later than men. Thus, while on the face of it the policy was gender-neutral, it actually discriminated in terms of its impact on women.

2. De Jure/De Facto Discrimination

Discrimination can also be *de jure* (discrimination in laws, policies, regulations) and *de facto* (discrimination in practice e.g., due to the social or cultural context, the laws get interpreted and applied in a manner which causes discrimination).

3. Past or Structural Discrimination

It is important to recognize that discrimination may be current or on account of structural or past/historical discriminations. This means that although the present situation may not surface any discrimination, understanding it by recognising the structural and historical contexts will show manifestations of discrimination and the need to be addressed as such. For example, very few women ran for candidacy and the electorate did not elect them into office, even though the government may have enacted a quota for women in national governance, which led government to conclude that the enactment is of no importance. This fails to consider the structural and historical inequalities, which prevent women from fully participating, as well as the voters from fully understanding women’s leadership. It is also necessary to recognise the lack of enabling conditions needed for women to become candidates (e.g., funds, training, voter re-education so as to change stereotypes, etc.). The state has an obligation to recognise structural and historical inequality and to create the enabling conditions for the rights to be realised.

4. Cross-Cutting Discrimination

Discrimination is also cross-cutting, i.e., its impact affects the enjoyment of other human rights. The impact of discrimination in one area can have an impact on denying other rights. This occurs because rights are interdependent. For example, restricting a woman to her home impairs her right to mobility at a surface level. In a deeper sense, this can also lead to violations of her right to participate in public life, right to communication, right to education and her right to work.

5. Intersectional Discrimination

When examining the impact of discrimination on multiple grounds, e.g., sex, race, caste, nationality, social status, there are three approaches that can be taken. The first is to focus on single grounds of discrimination. Sometimes, for strategic reasons, advocates intentionally focus on a single ground. This may be because one ground is more developed or acceptable than the others or that it is easier to prove one ground over the others. The second approach is to focus on additional grounds of discrimination, i.e., when affected by several grounds of discrimination you add one discrimination onto the other. In contrast, the third approach is to focus on the different grounds of discrimination and look at the integrated impact of the different sources of discrimination. The focus is on the intersection of the grounds and on recognizing that a unique form of discrimination is found at the intersection. For example, the experience of discrimination of a Dalit woman is different from the experience of discrimination of a Dalit man or a non-Dalit woman. In this case, she cannot separate her experience of discrimination as a woman from her discrimination as a Dalit. Thus it is vital that our interventions are aimed at the point of intersection: a Dalit and a woman at the same time.

In relation to state obligations under CEDAW, it is important to note that CEDAW specifically states that to eliminate discrimination, states are obligated to address accountability of not just state actors but also of non-state actors (Article 2(e))¹⁶. Further, Article 2(f) of CEDAW requires states to modify or abolish cultural practices that discriminate against women.¹⁷

In ensuing discussions, participants made the following responses:

- The housing approach to non-discrimination has been developed primarily on the basis of the CESC, which is a very strong non-discrimination instrument, but also on the basis of the CERD Committee's findings, which also have a strong focus on non-discrimination.
- The CESC and CEDAW have taken slightly different approaches to discrimination. Under CESC, gender is one ground of discrimination, among others. CEDAW, however, has focused specifically on gender-based discrimination.

¹⁶ Article 2 (e) "Take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise".

¹⁷ Article 2 (f) "Take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women".

- In the CEDAW context, equality is a positive statement of what should be while non-discrimination is more violation/breach-oriented. However, in the CDESCR context, the right to non-discrimination has also been seen as a positive right, i.e., states are required to take measures to ensure non-discrimination.¹⁸
- Another important aspect of the CEDAW approach to non-discrimination is its address of both intended and unintended consequences on women. CEDAW can be used to address discrimination in effect by showing the different impacts of the eviction on women. For example, in situations of evictions, the CEDAW committee may be more interested in the specific impact on women, which may be different for men and women, even though the treatment during the evictions may have been the same for men and women particularly. It may look into the short- and long-term economic, physical and psychological impacts on women.
- The application of non-discrimination in the context of housing needs to incorporate the non-discrimination approach recognised in CEDAW, i.e., direct/indirect, *de jure* (i.e., in law)/*de facto* (in fact), past/structural, cross-cutting and intersectional discrimination. For example, under the 'causes and consequences' column of the tool kit, the *de facto* and *de jure* assessment of discrimination could be included. The CEDAW model of gender equality and the forms of non-discrimination should also be translated into the questions that have been posed in the tool kit and the SRAH's questionnaire.
- Further, as gender equality is an overarching principle, it is important to build on the understanding of the relationship between non-discrimination and gender equality. Gender equality should be based on the model of substantive equality contained in CEDAW, which reflects both the progressive realisation principle contained in CDESCR and the importance of ensuring equality in effect. To this end, the legal sources of the overarching principles can be broadened to use the models promoted within CEDAW. Applying this understanding of gender equality can strengthen the use of this overarching principle in the tool kit.
- Lastly, in economic social and cultural rights, important work has been done in identifying structural causes of violations such as poverty, marginalisation, segregation, ghettoisation, discrimination, etc. Identifying the structural causes is important for violations of both the RAH and VAW.

Non-discrimination and gender equality in the elements of RAH

By Seema Misra, Researcher

Identified below are some of the examples of gender inequality and discrimination women have faced in relation to some of the elements of the RAH. These examples were collated

¹⁸ Emelita Salamangca (Philippines) explained the difference between equality and non-discrimination as - within the context of gender-biased manifestations, marginalisation is the discrimination, sub-ordination is the inequality, the stereotypes are the multiple burdens and the violation against women is a personhood violation.

from responses submitted in 2003 to the SRAH's questionnaire on women's right to adequate housing.

◆ Security of tenure

In their response to the SRAH's questionnaire, women have identified that security of tenure is dependent in many cases on women's marital status. A woman's marital status can determine whether or not she is able to inherit property or whether or not she is able to live in a house. Formal and informal laws discriminate against women on the basis of their gender and marital status. For example, in Georgia according to custom, a woman can only inherit property if she has a son. The State has an obligation to stop such discriminatory practices. In India, women's groups have been advocating for joint titles in land and property. While this increases women's access to land and housing, it does not translate to control over the land or house. Consequently, many women under joint titles are forced to stay in violent situations in order to retain access to the home.

◆ Public goods and services

In Delhi, India, a result of one of the evictions was that the displaced community was moved to a location far away from schools. The entire burden of transporting children to schools fell entirely on women.

◆ Affordability

Commonly, when gender-neutral housing laws and policies tend to be introduced, they fail to translate into affordable housing for women, whose specific circumstances are not considered. Sometimes blanket provisions are given for women (e.g., 10% of housing reserved for women). However, such blanket provisions cannot be fulfilled because no provision is made for enabling women to access credit facilities to purchase houses.

In South Africa subsidies can only be received by those who have title to land, which generally excludes women. Lack of title to land is an enormous problem for divorced or separated women.

◆ Cultural Adequacy

In Australia there was a case of an indigenous woman, living in public housing, whose neighbours objected to her having too many relatives in the home. As a result she was evicted. However there was a failure to recognise that indigenous Australian custom required women to take care of their relatives.

◆ Gap between law and reality

The practical implementation of gender-neutral laws and policies can be discriminatory in effect. By applying the substantive equality model identified in

CEDAW, states are obligated to take steps to correct these effects. A series of steps could reach a corrective approach.

VAW and violations of women’s human right to adequate housing

By Enakshi Ganguly Thukral, Researcher

In the consultation, VAW was used as an entry point for examining how to locate gender bias within violations of the RAH, starting with women’s experiences and using the tool kit for identifying and addressing violations of the right to adequate housing.

There is not always a direct causal link between VAW and violations of the RAH. Not every form of violence has a housing element or vice versa. However, there are many times where there are links – particularly in relation to the right to adequate housing in its larger perspective, i.e., land, inheritance, property etc.

What is VAW?

Gender-based violence has been defined by the CEDAW Committee in General Recommendation 19 as:

“...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.

Further, the CEDAW Committee, in General Recommendation 19, recognised that gender-based violence is a form of discrimination against women.

VAW is a manifestation of historically unequal power relations between men and women on both an individual and societal levels. VAW can take several forms, whether it be in the home, the community or by the State. VAW, whether it is rape, domestic violence, or some other form, is a chosen deliberate action by men against women, because men have more power over their women, in the family, community and State. This inequality is a result of cultural, traditional, historical and structural practices and institutions (i.e., laws, policies, religious beliefs, texts, institutions), all of which contribute to unequal power relations. Inequality between men and women is manifested in discrimination against women, including violence against women and forms a culture of violence within which women live.¹⁹

¹⁹ Although women at times also act violently against other women, e.g., mother-in-law abusing daughter-in-law, women employers abusing women domestic workers, given the historical inequalities between men and women the starting point for VAW is not who the perpetrator is but who are impacted by the violence. In general, the victims are disproportionately women. In terms of the perpetrator it is important to identify the value system from which the perpetrator derives their ascendancy/authority. For instance, women acting violently may be perpetuating patriarchal relations by acting within the construct of women’s role as determined by the larger context of unequal power relations between men and women. Or their acts may be a manifestation of power inequalities between different groups of women (e.g., different class, caste or ethnic groups).

How can housing factors contribute to situations of VAW?

Access and control of housing, land and property, as economic, social and political resources, is also determined through unequal power relations between men and women. Lack of adequate housing can make women more vulnerable to various forms of violence and conversely VAW can lead to the violation of women's rights to adequate housing.

In understanding the relationship between VAW and RAH it is important to look at the causes, impacts, actors and interventions, in relation to the violation of women's rights both in terms of housing and violence.

To understand the causes of VAW in the context of housing, it is useful to identify some of the housing-related factors that trigger violence at different levels:

- In the home:
 - Degrading housing and living conditions – which is also in itself a form of violence
 - Density
 - Not having title/equal rights
 - Homes being situated in conflict zones

Such factors can have an impact on different situations of VAW such as domestic violence, forced evictions, or armed conflict/ethnic conflict.

The example of domestic violence can be used to examine the housing-related factors that contribute to women's violence:

- Density
- Inadequate and insecure housing and living conditions (poor habitability, physical safety as a reflection of poverty)
- Lack of civic services (water, electricity, sanitation)
- Particular conditions (disabilities)
- Lack of secure tenure
- Ownership and control over property and housing also acts as a control in situations of domestic violence. Domestic violence is thus closely linked to being able to make decisions about property/security of tenure.

Such factors can play differently in the various forms of violence within the home, such as marital rape, dowry deaths, honour killings, etc. There are also several housing-related factors at play at the community, state, and international levels which contribute to VAW, including:

- In the community:
 - Evictions
 - Discrimination (gender, class, caste, ethnicity, etc.)
- At the state (municipal or national) level:
 - Lack of laws (personal laws, family laws, property laws, etc.) and policies;

- Increasing legal recognition of women's rights but lack of implementation (this was a critical finding the SRAH made in his report to the UNCHR on women and adequate housing in 2003, E/CN.4/2003/55)
- At the international level:
 - Globalisation is having a significant impact in terms of increasing levels of poverty among women, reduced adequate housing (e.g., less access to affordable services) and greater vulnerability to violence (e.g., domestic violence, armed/ethnic conflict, trafficking).

What are the impacts of VAW within housing rights violations?

The impacts of violence against women within housing rights situations are both short and long term. When examining the impacts it is important to consider the:

- ◆ Material impacts - on victims and others
- ◆ Non-material impacts (psychological, social) - on victims and others e.g., what is the long-term psychological impact on women of displacement, and what interventions are need to retribute this?
- ◆ Impacts on women at all levels (i.e., in the home, community, state, international) and how the impacts cut across each of these levels.

In assessing the impacts it is also important to reflect the experiences of particular groups (i.e., female-headed households, indigenous and tribal women, women with HIV/AIDS, women with disabilities, rural women living on subsistence farming, women victims of forced eviction, domestic violence, refugees and internally-displaced women, widowed, divorced or separated women, women in conflict, post-conflict situations, women migrants, migrant workers and domestic workers, etc.)

It is also essential to be able to quantify impacts in their entirety, so that adequate assessments can be made of what is needed to retribute the wrong. The HIC-HLRN Loss Matrix is a valuable tool that can be used to quantify the impacts for the purposes of compensation.

Accountability for VAW and RAH violations

In order to address a violation of VAW and RAH, it is essential to identify who is responsible. The HIC-HLRN Tool Kit provides a strategy for identifying who is responsible for the violations, whether committed in the private or the public sphere, by state or non-state actors, at all four levels. Ultimately, it is important to identify the responsibility of the state as duty holder to address the violation, even though the person committing the violence may be an individual community member.

Finally, it is important to identify what interventions need to be made at each level to address both the housing and violence components of the violation. Interventions can be made by the state or others, i.e., para-legal methods, community groups.

Conclusion

In order to understand the linkages between the RAH and VAW, it is important to unpack the forms, causes and impacts of RAH violations in situations of VAW and vice versa. The consultation examined this by starting with a clear understanding of the RAH and its elements. VAW was then used as an entry point for examining how to locate gender discrimination within violations of the RAH, starting with women's experiences and using the tool kit for identifying and addressing violations of the right to adequate housing. The next step was to examine how violations of women's RAH can be monitored, reported and addressed, using tools such as the HIC-HLRN Tool Kit and Loss Matrix. This included utilizing a substantive approach to non-discrimination and gender equality which strengthen the normative content of women's rights in this area. This part of the consultation then concluded by exploring in detail some of the contributing factors of housing to situations of VAW and how these arise in the home, the community, the state and internationally. Also identified were the material and non-material impacts of VAW on women's RAH and the importance of holding both violators and duty holders accountable for violations of RAH and VAW.

WOMEN'S EXPERIENCES OF VIOLENCE WITHIN VIOLATIONS OF THE RAH

“As a refugee from Pakistan we moved to North East India and were displaced. Home is a sense of loss, belonging, control and ownership; a sense of security and joy, happiness and love for everyone in the family.”

Enakshi Ganguly Thukral

Testimonies by women about their personal experiences of RAH violations and VAW are a critical source of information for the SRAH. Particularly in the case of marginalised women, testimonies provide a means for women's voices to be directly heard by the SRAH.

The testimonies were collated under five themes:

- domestic violence;
- armed/ethnic conflict, militarism and fundamentalism;
- discrimination and segregation in eviction and housing;
- legal and cultural obstacles to land, inheritance and property rights of women; and
- globalisation.

Participants were encouraged to present their testimonies within the HIC-HLRN tool kit's framework, to ensure a rigorous and consistent approach.

Key points from the testimonies have been compiled below. The complete testimonies are provided in Annex E.

Domestic violence

Testimonies from:

1. Ivy Josiah, Women's Aid Organisation (Malaysia)
2. Ketevan Dadunashvili, Women's Advising Center Sakhli (Georgia)
3. Krishnan Yogeswary, Institute of Development Studies (Sri Lanka)
4. D. Enkhjargal, National Centre Against Violence (Mongolia)

Malaysia – Lack of available shelters

A woman from East Malaysia wanted to leave her husband who had been abusing her. She called Women's Aid Organisation (WAO), one of three shelters in Malaysia, who advised her to seek assistance from the welfare department in her area as WAO does not have shelters in East Malaysia. Despite following WAO's advise, however, she was unable to get a court order to go into a welfare department home. Further, welfare department homes cater more to abandoned children and people with disabilities, rather than survivors of domestic violence. For this woman there was no safe shelter available.

Malaysia – Single mothers

A woman, who left her husband because he was abusing her, went to work as a security guard to earn enough to look after her children's needs. As part of her employment conditions, she was given a room to sleep in. One night she was attacked by robbers and

after that did not feel safe. She got another job, where she was also given sleeping quarters, which she had to share with male employees who sexually harassed her. She moved to a squatter settlement, where she paid 15% of her income on rent. She applied for public low cost housing, but was refused on the grounds that she was not divorced. She had to return to the authorities 16 times before the Council recognised her claim for housing.

Malaysia – Shelter conditions of domestic workers

An Indonesian woman who was employed as a domestic worker was given a cage outside the house to sleep in. She had no toilet facilities. She was only allowed out of the cage to work in the house 3-4 hours a day. The police have now rescued her.

Georgia- Women and harsh economic realities

About 65% of Georgia's population lives below the poverty line and the share of women among the poorest groups of population is very high.²⁰ Poverty is a key factor that prevents women from exercising their right to adequate housing.

In Tbilisi, the capital, the official monthly subsistence minimum in 2002 was \$60.50 per adult. However, minimal salary of an individual employed in the public sector was only \$9.00. According to the State Department of Statistics, the average salary of women working in the state production institutions was 41% less than that of their male colleagues in 2002.

Forty-two year-old Ms. L has been married for 13 years. She has two underage children who suffer from chronic health problems. Her husband wants a divorce, but this will deprive her of a house and material support necessary for her children's medical care. Her husband's official salary is \$32; therefore, alimony would be very low, because his actual income from other businesses is not registered.

In a survey conducted by the Georgia Centre for Research and Development, 57.3% of 400 randomly selected respondents identified harsh socio-economic conditions, unemployment, and related destruction of traditional gender roles (man: breadwinner; woman: caregiver) to be accelerating factors for domestic abuse. Most women suffer the violence in order to avoid homelessness.

To alleviate economic difficulties, many women migrate for job opportunities but in many cases, due to their illegal status in foreign countries, their labour rights are violated and they become targets of human traffickers.

Georgia – Internally-displaced women

The problem of access to adequate housing is also extremely acute for the internally-displaced persons (IDPs). 85% of IDPs live in 3600 places in high-density settlements. The average number of people per room is four; cooking places and toilets are often shared; and sanitary conditions are dismal. Consequently, the level of infectious disease such as tuberculosis and hepatitis is very high among IDPs. The law on IDPs allows for the provision of temporary housing, but the conditions are below minimal housing standards.

²⁰ "Woman in Georgia" - Georgian Center of Research and Development, 2000.

Sri Lanka – Plantation line housing

More than 100 years ago the British planters provided single-line room houses for the plantation worker families. Today, more than three families live in these same single-line rooms. The high density and lack of privacy create many problems for women, including high rates of domestic violence. About 99% of women interviewed said they were beaten by their husbands very often. "The husbands come home drunk at night and as soon as they finished their dinner they went to bed and called their wives to sleep with them. The wives didn't feel comfortable having sex when everyone around them was still awake. When denied, husbands become suspicious of their wives and beat them."

Inadequate housing makes young women more vulnerable to violence in the family. The drunken husbands and brothers harass the young women of the family in situations of inter-generational violence against women.

According to cultural beliefs, menstruation is taboo. So women have to do everything related to their menstruation in secret, even at times being forced to change their clothes in the tea bushes during their menstrual days, due to the lack of privacy in the line houses.

In 1987, a scheme for single cottage housing (which consists of two rooms) was started by the government. Of the 15 women interviewed from the cottages, only one was beaten by her husband on suspicion. The additional space allowed women to discuss their concerns freely with their husband and the separate rooms enabled them to safeguard themselves from assault.

Mongolia – Lack of implementation of laws

In Mongolia, legal and constitutional guarantees are more a symbolic declaration rather than a guideline for implementation. There is no specific legislation addressing domestic violence and policies are not designed to meet the specific needs of vulnerable groups. Addressing the impacts of natural disasters deflects efforts for implementing laws and policies. The social welfare system fails to recognise victims of domestic violence, making it difficult for them to access social welfare services.

Mongolia – Privatisation of land

In the post-communist era, privatisation of land means each family/household has the right to own a piece of land. However, women who are not married (i.e., single or separated) are not able to own land. When women who are victims of violence in the family want to leave the family, they have no access to the land.

Armed/ethnic conflict, militarism and fundamentalism

Testimonies were given by the following:

1. Sima Samar, Afghan Independent Human Rights Commission (Afghanistan)
2. Pramila N. Parmar and Ramila J. Parmar, Navsarjan Trust (India)

Afghanistan – Shelter and violence in refugee camps

The conditions in the refugee camps are very poor. Women live without adequate shelter, sanitation or privacy. Access to health and education is restricted. Different groups of refugees are forced to live together in confined spaces with people whom they do not trust, which often leads to conflict between people over issues such as bathroom space. Refugees are often stuck in such situations for the long term. Forms of violence such as child trafficking and early child marriage are a common occurrence in such situations.

Repatriation is another situation where many women face violence and deprivation of their right to property. The majority of women returnees have no land or houses to return to which makes them very vulnerable. Often refugees return to find their houses taken over by military commanders who refuse to leave. For those women who own land, when they return they are often denied access to their land by traditional leaders and even by the judicial system. Women cannot even appeal by themselves and must rely on male relatives.

Forced marriages are another violation of women's rights that also costs them their homes and physical security. Forced marriages by commanders to obtain land inherited by women are common in Afghanistan. Some women have had to flee the country or go into hiding to avoid being kidnapped and forced to marry military commanders. Often these are underage marriages, with girls as young as eight forced to marry old men.

India – Discrimination against Dalits in communal riots

The violence and loss of homes during the Gujarat communal riots in 2002 had a financial and psychological impact on Dalit women. The government has not assisted Dalit communities to recover from the losses. In contrast, the communities who suffered losses as a result of the earthquake in Gujarat were given government assistance to recover.

Many of the women who suffered violence during the riots were put into shelters. However, when they wanted to return to their communities, the perpetrators of the violence demanded they withdraw any cases against them, before they could return home.

Discrimination and segregation in eviction and housing;

Testimonies were given by the following:

1. Shan Women Action Network (Thailand)
2. Hemanta Dalal, BRAVVE and RWF (Nepal)
3. Sri Wiyanti Eddoyono, Urban Poor Consortium (Indonesia)

Burma - Systematic rapes and evictions

In Central Shan State, Burma, over 300,000 Shans from over 1,400 villages in an area of 7,000 square miles have been forcibly evicted from their homes. People were forced at gunpoint to leave their land, crops, animals and personal belongings, which were taken by the military troops. This was done to counter Shan resistance forces in central Shan state and to depopulate the areas which lie in the flood zones of the planned Ta Sang Dam on the Salween River in Shan state.²¹

²¹ MDX-Thai Sawad (Thai company) and EGAT (Thai electricity department) are the main investors in the dam.

People were put in relocation sites, but not provided food or housing, and are not allowed to travel from the sites to farm their own land. In the relocation sites they are engaged in forced labour (i.e., clearing land, portering, guarding sites, building barracks, fences, and roads).

Women have been easy targets of violence. Many women are being raped by the SPDC soldiers within the relocation site, or when doing forced labour for the military.

Many people who have tried to escape are living and hiding in the jungles. So the SPDC has been systematically conducting extra-judicial killings of villagers and raping women caught outside the relocation sites, to deter others. Many women or girls have been raped when caught, usually searching for food, outside of the relocation sites or when stopped at military checkpoints.

Bhutan- Women refugees

Since being forcibly evicted from Bhutan, refugees have been living in the refugee camps in Nepal for the last 13 years. In the camp, the situation of women and children is not safe. The settlement is very congested and there is no privacy. A family of up to 8 members has to be accommodated within a space of 3.5 X 5.5 meters, which includes the space for cooking and guests. There is no provision for a bathroom nearby. Elopement of young girls and early marriages still exist and lead to early child bearing.

Indonesia - Women and forced evictions

In Indonesia, due to evictions:

- Thousands of women have lost their houses: they stay in the street, small boats, or other unsafe places;
- Thousands of women are sexually violated, face sexual harassment and intimidation;
- Thousands of women have health difficulties (i.e., stress, trauma, children get sick);
- Thousands of women face difficulties in enabling their children to continue their education and in taking care of their children;
- Thousands of women lose their incomes;
- Thousands of women lose their belongings;
- Thousands of women lose their communities;
- Thousands of women lose their rights to negotiate, to design their lives.

In their families many women suffer from domestic violence. One of the women leaders was beaten by her husband in 2002 for participating in campaigns.

At the community level, poor women are stigmatised as being dirty, stupid, criminal, and immoral. They are prevented from participating in activities held by other women in their community. For example, it is difficult for them to become members of schools' parent's boards, which are an important body because it sets the education fee for students.

They have difficulties in accessing programs for the poor (e.g., health programs, loans, housing programs), and getting birth certificates for their children (which is a requirement for school).

In Indonesia, women are the leaders of many of the slum communities. They know more about who their neighbours are and how to survive. So, women's problems are often used as the starting point when developing campaigns against slum evictions.

Legal and cultural obstacles to land, inheritance and property rights of women

Testimonies were given by:

1. Dholi, the Bhavaria nomadic tribe (India)
2. Ratna Shreshtha, Forum for Woman, Law and Development (Nepal)
3. Ferdousi Ahkter, Naripokkho (Bangladesh)
4. Noraeri Thungmuangthon, Karen Network for Culture and Environmental Development (Thailand)
5. Young Sook Cho, Korean Women's Association United (Korea)

India – Lack of housing and violence against nomadic women

Dholi belongs to a nomadic tribe called Bhavaria in India. Due to national park policies, nomads are prohibited from living in the forests contrary to their traditional culture. The Bhavaria is one of several tribes that have been criminalised and are thus illegal both inside and outside the forest.

Wherever they try to settle they are harassed by local communities (their houses are burnt down). As the men often have to travel for work, women face the brunt of the harassment which manifests as VAW (i.e., rape, sexual harassment). Bhavaria women face difficulty in accessing water because many of the sources of water belong to other communities who beat and rape Bhavaria women when they try to access the sources of water.

Bhavaria members are sometimes given fake ration cards to allow them to vote in elections, but without authentic ration cards, they cannot access housing, education, etc. As the girls cannot attend school and they face such great risks of security, they are married at a very early age.

Dholi says, "If we had a house we could lock we would be safe. At the moment, living under the trees, we are always open to abuse and VAW".

Nepal – Overcoming discrimination on women's inheritance rights

Sita successfully challenged her divorce, which was done without her consent. However, after the court finding, her husband evicted her from her home. She has no rights to property either from her husband or from her parental home.

In 1993 Advocate Meera Dhunagana filed a writ petition challenging the discriminatory provisions in law that require a daughter to be unmarried and 35 years of age before she can receive her share of the parental property. The Supreme Court declared the provision to be discriminatory to the extent that the same stipulations do not apply to sons. The court issued a directive to the parliament to amend the family laws relating to property.

NGO's lobbied strongly for the adoption of Country Code 1963 (Eleventh Amendment), which among other things, removed the discriminatory provisions on inheritance. NGOs held a large national conference to which parliamentarians were invited to listen to women's testimonies. 2,000 women marched to parliament in support of the amendments. As a result of the mobilisation, there was an almost unanimous vote in parliament. Only one person voted against the Bill, and only because it was not comprehensive enough.

Bangladesh – Denial of maintenance/guardianship

Many poor women are not aware of the requirement for marriages to be registered. Most marriages are witnessed by relatives, local leaders or the village chairman. Sometimes in middle class families, an affidavit is made, but still there is no registration. In the case of divorces with unregistered marriages, women cannot access any maintenance, which results in lack of income for livelihood, inadequate housing and risk of VAW. Further, guardianship rights revert to the parental family. Husbands often choose not to support the living costs of girl children, whereas they more commonly take custody of sons.

Thailand - Hill tribe women

Due to the introduction of Protected Area policies in Thailand the hill tribes have become forest encroachers on lands where they have lived for generations. The farming areas have been restricted, leading to a steady decline in food production and traditional lifestyles. As a result of losing their lands, fathers, young men and women have had to move to the lowlands and the city, in search of alternative livelihoods. There they have been taken advantage of by employers and women have faced increased sexual violation and harassment.

Many hill tribe people in Thailand are denied citizenship, and so do not have any status in formal law systems. As a result customary law is followed on issues of inheritance and property. In the Karen community women can only inherit land if the family gives it to them. The call for women's equal right to inheritance law is not part of the campaign for citizenship because it is seen as part of customary law. Once citizenship rights are granted, Karen women will be able to access equal rights to land and inheritance under Thai law.

Korea – Inheritance of family surname

In Korea a surname is much more than a name, it also identifies who has the right to land (i.e., in a marriage, women are considered as guests). So under Korean law children can only inherit the father's surname, not the mother's. This has led to an obsessive preference for sons, to the extent that there are cases of female foetuses being aborted. Also, divorced mothers and their children face many restrictions as a result.

Globalisation

Testimonies were given by:

1. Shan Women Action Network (Thailand)
2. Kasinee Kwangcharoen, Sustainable Development Foundation (Thailand)
3. Connie Regaldo, United Filipinos in Hong Kong (Hong Kong)
4. Young Sook Cho, Korean Women's Association United (Korea)
5. Emelita Salamanca, Grassroots Women's Empowerment Center (Philippines)

Thai-Burma border – Shelter for women migrant workers

Many women refugees from Burma are working as migrant workers along the Thai-Burma border in towns such as Mae Sot. The workers are required to pay a third of their salary to cover the cost of their dormitory and food. Their freedom of movement outside the factory/dormitory is restricted. Often men and women workers are required to share quarters, as a result women workers face sexual harassment. Where women workers have tried to negotiate for better conditions they have been summarily deported to Burma, as

'insurgents', where they then face risks of sexual assault and persecution by the military authorities.

Thailand – Fisherwomen

About 92.3 percent of fishing households in Thailand engage in small-scale fishery. At present they are struggling to sustain their livelihood. The government promotes commercial and large-scale fishing operations which have caused coastal resource degradation. Also as more areas are designated as Marine National Parks, fishing communities are being classified as encroachers on state land, and are not allowed to utilize coastal resource or build homes in the conservation areas.

The fisherwomen from Thailand identified:

"We simply want a home and a secure food source. Housing embraces more than basic shelter, it also includes access to resources and occupations that earn us a sufficient income to survive. We live by the principle of sufficiency, and not more, in order to ensure that these resources are available to us in the long-term."

Women in fishing communities possess the knowledge of food processing and oversee household financial management, all of which are skills that men do not have. Now, laws and policies have reduced access to housing, income and food. Without enough food and income to sustain livelihoods, the community has become disintegrated and women have had to shoulder the added burden of earning extra income and face greater risks of being emotionally and physically abused.

Many women have moved to the city in search of jobs and alternative sources of income that do not correlate with their traditions and skills. They work as hired labour to serve the industrial sector, working long hours, under dangerous working conditions, to earn petty wages with no welfare support. Some women have engaged in prostitution.

As unbelievable as it seems, it appears to be a conscious effort of the government to ethnically cleanse the small-scale fisherfolks. In response the small-scale fisher-folk seek the right to self-determination and the right to make decisions about their environment.

Hong Kong – Women migrant domestic workers

Generally, housing for migrant domestic workers is substandard, increasing their vulnerability to abuse and exploitation.

Housing for migrant domestic workers is their workplace. Since it is the employer's house, the domestic worker is only given space to comply with the employment contract. It could be shared with their wards (elderly male & female, grown-up children of either sex, infants and toddlers and even employers). The kinds of shelter that have been given include, the kitchen, opets, bathtub, toilet bowl, cupboard, balcony, store room, or a private room but with no proper ventilation (no windows, air conditioner or electric fan).

Many women domestic workers face violence, including rape and sexual harassment, from employers. If their employment is terminated, their two-year visa is shortened to two weeks, and their status during the two weeks reverts to that of visitor so they cannot access any local services. As of the time their employment is terminated they are homeless. In effect,

this 'two week rule' prevents women workers from filing complaints in situations of violence and abuse.

Korea – Trafficking and prostitution

Globalisation, which has resulted in increased poverty among women, and less opportunities for sustainable employment, has led to an expansion of the sex industry, particularly in young girls. Girl children from families that experience divorce, poverty or domestic violence often become street children and are seduced by pimps. About 4.1% of Korea's GDP in 2003 came from the sex industry. Due to the economic recession, the government is eager to seek income from whichever sector it can.

The Seoul Reconstruction Plan for 2003 will mean the eviction of 1,000 prostitutes from a major brothel area. Women's groups have demanded alternative housing and employment opportunities be provided to the women who will be evicted, as well as a one-stop service centre to provide support and counselling. The aim is to rehabilitate the women out of the brothels and out of prostitution. Seoul City has agreed to allocate money for alternative housing.

Philippines – Evictions due to globalisation

The Bases Conversion Development Authority (BDCA) is undertaking a project to modernise the railway systems in the Philippines, in order to connect all the economic growth areas. The project will mean the eviction of 200,000 poor people living on the side of the railways. The electoral commission has denied registration for voting in the 2004 elections to all those living in these "danger zones", on the basis of their residency – regardless of their citizenship status.

Globalisation projects such as this disproportionately affect women who bear the brunt of housing violations and poverty. Women are also disproportionately affected by acts of violence used in forced evictions. Lack of security in housing and land deprives women of economic autonomy, physical safety and personal dignity and serves to marginalise women by continuing their social subjugation.

VAW AND RAH FRAMEWORK: IDENTIFYING TRENDS, PATTERNS AND OBSTACLES

Initial Inputs and Facilitation by Rea Abada Chiongson, IWRAW-AP

“Home is... a place where you can be yourself; realise your dreams; have the safety to be what you want to be; and have no tolerance for any kind of violence against anyone in the household.”

Anuradha Rajan, India

The principal finding from the consultation was that women continue to live in cultures of fear and insecurity. Women’s identities and dignity continue to be affected. The inferior status attributed to women and corresponding lack of any status independent of male members of the family, clearly contributes to both housing rights violations and VAW. The lack of a secure place to live aggravates this already serious situation and contributes to increasing violence against women.

The testimonies and case studies presented in the consultation highlight specific examples of violence experienced by women in relation to the various elements of their right to housing. By examining these cases it is possible to establish some common understanding of the trends and patterns about the interlinkages between VAW and women’s RAH. The value of understanding these linkages is to be able to identify and/or reaffirm the systemic implications in terms of discrimination against women. These findings can also assist in understanding the complex nature of violations women are facing as well as identify possible strategies for preventing and addressing the violations.

What are the interlinkages between VAW and RAH?

“As an activist for the RAH, when it comes to violation of human rights, particularly economic, social and cultural rights, I realised that the violations of the RAH are so typically violent, e.g. in forced evictions that are done by the state to eliminate unwanted peoples, it is always the home that is targeted and . . . women who are the first line of the victims. Therefore it is a natural step to come into partnership with groups working on VAW and groups working on the right to be free from torture. Also the nature of violence raises an urgent need for the linkage to be made between the dual approaches.” (Joseph Schechla)

VAW and RAH are connected in the sense that a violation of one can be a cause and/or contributory factor for the violation of the other. (e.g. eviction from the home can lead to women being subjected to street violence due to lack of safe places to stay; on the other hand, domestic violence can lead to women being deprived of housing) They impact on each other. Further, a violation of women’s RAH can have similar effects and impacts on women as forms of VAW, particularly in terms of disadvantaging and discriminating against women.

A violation of RAH can also be a form of VAW. For example, the threat or act of being evicted from the house is a violation of security of tenure and at the same time a form of

VAW. Similarly, VAW can be a form of violation of RAH. For example, use or threat of sexual violence or rape in the house is a violation of RAH (i.e. threat to security).

The nature of violence commonly experienced by women, particularly in situations where their RAH is violated, creates an urgent need for the interlinkages to be seen and addressed.

Key issues common to RAH and VAW

Some contexts which illustrate the interlinkages between the right to adequate housing and the right to a life free from violence include:

- Domestic violence
- Forced evictions
- Armed conflict
- Discriminatory cultural norms and traditions
- Globalisation/poverty

Common causes and forms of VAW and RAH violations

The main cause for violations of women's RAH and for women's experience of violence is the inferior status or subordinate role attributed to women. Thus, it is important to focus on structural inequality. The substantive equality and gender discrimination framework identified in CEDAW helps to recognize and address structural and other forms of violations to RAH and VAW. It is in this regard that the interventions should include enabling conditions and temporary special measures for women.

Forms of VAW are often manifestations of the different contributory factors for VAW. Therefore as well as identifying the cause of violence it is also important to specify the form of VAW. For example, it is not sufficient to simply identify domestic violence, it is necessary to identify what kind of domestic violence, e.g., marital rape, widowhood, dowry burning etc. By specifying the form of violence a fuller understanding of the context and contributory factors emerge.

Further refining the normative content of the RAH: Looking at individual elements of the RAH

By examining the interlinkages with VAW, additional aspects of the normative content of the RAH were identified during the pre-consultation training and the consultation.

The concept of housing goes beyond the private home and necessarily includes different forms of accommodation including shelters, detention centres, refugee camps, factory dormitories, where all relevant elements of the RAH must equally apply, including ensuring security of the person from the different types of harassment and violence women suffer.

On the element of security, the widespread use of sexual violence as a tool for oppressing, controlling and silencing women was also apparent from the testimonies, e.g., marital rape, rape in refugee camps and relocation sites. In this context, it is important to look into both the public and private spheres when identifying violations of women's RAH. Therefore security must extend both to include inside and outside of the house. It also must include physical, mental, psychosocial and spiritual security, reflecting the different experiences of

violence against women. Furthermore, the concept must be based on a life-cycle approach—recognising how the different forms of violence impact on women’s security from the time they are born until death.

On the element of privacy, the monitoring framework asserts that privacy rights are not invocable in cases of domestic violence. However, in addition to this guarantee, it is important to critique the basis of privacy so that it can be also invoked to address other forms of VAW, especially insidious and subtle violations, especially those that arise as a result of a context of violence and impunity, even though no actual act or threat has been made. For example, where women self-regulate their behaviour with husbands, in fear of being evicted, not because the husband has made any threats to evict them, but because it is common knowledge that husbands can evict their wives violently and with impunity, and that this commonly occurs.

On the element of access to services, communications is an essential service for people in the home (e.g., phone, internet), in terms of accessing information, overcoming obstacles to freedom of movement, seeking assistance in situations of domestic violence, etc. This aspect or access to services has not been looked at sufficiently within the element of RAH, particularly in terms of the linkage with VAW.

Women in the home as targets

There were also discussions on the targeting of the home and the fact that women are seen as guardians/symbols of the home as well as being the most visible occupant of the house. As a result women have become specifically targeted and impacted in violations of RAH.

A caveat on the point stated above is that a concept of women as guardians and symbols of the home is not useful as it can restrict women’s mobility and autonomy. It reinforces stereotypes and imposes burdens on women to stay at home and to keep the home and family intact. Elements of the right to adequate housing must be consistent and respectful of women’s autonomy and agency. To this extent a de-linking of women from the concept of the home is important. Of particular relevance is the element of privacy and how this should not be used to confine/imprison women to/in the home.

Critiquing the rights to culture and religion

The practice of culture/religion is a right but at the same time its practice may be a source of violations. Culture and religion are sometimes used as justifications for discrimination against women (e.g., inheritance rights, guardianship, status made dependent on marital or parental links). In this regard a re-examination of the elements of the RAH is crucial. In particular, it is of concern that the RAH element of cultural appropriateness may be used to/function to strengthen the legitimacy of cultural practices that discriminate against women. Thus, although self-determination and the right to practice one’s own culture are human rights, they must be enjoyed within a framework of gender equality and non-discrimination. Our interventions must be clear in condemning cultural practices that violate women’s human rights.

Women’s right to self-determination²² is critical in terms of women’s right to housing,

²² See footnote 11 for an explanation of the term ‘autonomy’, as one means of expressing individual self-determination.

women's reproductive and sexual rights in situations of VAW, and indigenous women's cultural rights, among others. The application of overarching principles such as gender equality, non-discrimination and women's self-determination provide a common ground for joint mobilisation between women's groups, housing groups and indigenous groups.

Impacts of violations of RAH and VAW on women

When identifying violations, it is important to show the impact and to highlight its specificity on women.

Violations of RAH and VAW impose additional difficulties and tasks on women who are already subject to multiple burdens. For example, cases were given of women actively being used as coping mechanisms in situations of RAH violations. (E.g., as women are seen as keepers of the home, despite evictions and bad relocation sites, they work to ensure that house needs are met. In South Korea economic recovery campaigns focused on making sure wives were fulfilling their duties by attending to their husbands needs, but not the same concern has been accorded to women.)

It is important to highlight that tenure or grant to land/housing is a source of security and empowerment while lack of land/housing becomes a source of vulnerability for other rights violations. (e.g., deprivation leading to migration for work and may lead to exploitation; lack of housing options cause women to remain in abusive relationships).

Impunity

Despite international and national standards and laws, perpetrators have not been brought to justice. Impunity at national and international levels render perpetrators unaccountable and leads to a climate of fear and further impunity. There is a need to monitor women's RAH and VAW, to report violations and to advocate for accountability and the strengthening of the rule of law, where it reflects human rights, and improved access to effective remedies.

Another aspect of understanding the interlinkages within a rights framework is the advancement of more rigorous indicators for state accountability. In VAW, the focus has been on removing the public and private divide. By integrating VAW and economic, social and cultural rights, accountability of states to a broader range of obligations become more evident. In this respect it is important to re-affirm where the duty/responsibility lies - on the state as holder of obligations under international treaties; and on non-state actors, particularly the actors of globalisation and those working at the global level, and to hold all duty-holders accountable.

Participants also emphasised that due to the context of impunity, simply being in a situation where a woman is vulnerable to her rights being violated has an impact on a woman. For example in countries where the practice is for women to be evicted from the home and/or beaten if she opposes her husband or the marriage breaks, even though the husband may not make any direct threat or act of violence/eviction, the woman lives her life in response to the possibility of it. This shows that we need to be aware not only of the overt acts of violence and RAH violations but also of the more insidious contexts of VAW and their relation to the RAH.

Examining the interlinkages leads to a more rigorous analysis of accountability, leading to more comprehensive solutions.

Intersectional discrimination against women

The international human rights standards and corresponding state obligations can be strengthened by integrating the different models of non-discrimination and equality used in the conventions and applying the best possible standard that can emerge. In this best possible standard, women's rights are not marginalised, overlooked or de-prioritised but reaffirmed, enhanced and strengthened.

From the testimonies and case studies, it is evident that discrimination as manifested by segregation and disadvantage exist on account of identity hierarchies. These hierarchies may be based on status, race, caste, ethnicity, nationality and other identity categories. Hierarchy and the resulting *de jure* or *de facto* classification of persons have prevented access and enjoyment to RAH and protection from VAW. (e.g., *de jure* classification: refugees; *de facto* classification: nomadic tribes, Dalit women).

In this regard, interventions must provide visibility to the woman. There must be recognition of a separate identity for the woman, (e.g. most interventions fail to look at women within disadvantage groups thus fail to see the gender-specific impact of violations to RAH). Any intervention must also recognize the many power relations that impact on women (e.g., gender, class, caste, economic status).

In order to apply the principle of non-discrimination, in a way that is reflective of the range of women's experiences, it is necessary to use an intersectional approach to understanding discrimination. This provides an opportunity for more relevant and comprehensive interventions and for consolidated actions among groups working with and within various identities.

Addressing VAW within an ESC Rights and Substantive Equality Framework

Addressing VAW and violations of RAH within the economic, social and cultural rights and substantive equality frameworks will assist in addressing:

- Structural inequalities because it provides us a better understanding and analysis (i.e. meeting the minimum standards for the rights to be realized and ensuring non-derogation, particularly in relation to addressing issues such as poverty);
- Women's ability to own or inherit land and property;
- State accountability for causes and consequences of VAW and for the conditions necessary to inhibit VAW;
- Common issues such as poverty and gender discrimination, through different sectors supporting each other's advocacy for women's rights.

Examining VAW and RAH within the context of each other and within the contexts of the above frameworks, has resulted in greater clarity and relevance of both the rights to be free from violence and the RAH. An example is clarity in terms of identifying violations (i.e., using the 14 elements of the RAH to identify and articulate the violations). This connection must be reflected in future work, e.g. trainings, research (using the tool kit as an assessment

tool) and drafting of shadow reports for treaty bodies (CESCR, CEDAW Committee). CEDAW shadow reports can be strengthened by articulating state accountability for the 14 elements of the RAH, when reporting under CEDAW.

Summary: Reaffirming the Benefits of the Interlinking

The identification and recognition of the interlinkages between economic social and cultural right with VAW has resulted in:

- (1) More clarity regarding the interconnectedness of rights and the crosscutting nature of violations.
- (2) Reaffirming VAW as discrimination against women and gender-targeted violence, which is connected to other forms of discrimination (e.g., discrimination against Dalits, tribals, nomads, etc.);
- (3) Establishing links between the public and the private spheres, i.e., housing is not just four walls of enclosure, but also includes the right to participate in public services, in the physical, social, legal and economic environment;
- (4) Surfacing insidious or subtle violations especially within a cultural environment of silence;
- (5) More thoroughness and precision in identifying the violations and perpetrators, and in enforcing measures of accountability and calculating the losses;
- (6) Allowed work from a broader legal base, which opens greater possibilities for joint interventions/actions to fully address the violations.
- (7) Develop multidisciplinary interventions that provide technical, moral, legal and other solutions. To do this it is important to work with different groups: activists, lawyers, statisticians, economists, policy analysts, planners, architects, etc.

STRATEGIES FOR ADVOCACY

Initial Input and Facilitation By Joseph Schechla, HIC-HLRN

“Home is...like a candy – cheap and sweet – everyone should be able to afford it.”

Young Sook Cho, Korea

Legal strategies at the international level

- Standard setting at the international and national level, which reflects the interlinkages between VAW and the RAH;
- Report to SRAH and other Special Rapporteurs;
- Advocate for the ratification of treaties e.g., ICESCR, CEDAW, CERD, CRC;
- Submit parallel/shadow reports to different treaty committees e.g., CSECR, CEDAW, CAT, CERD, etc;
- Include reporting on the linkages between RAH and VAW in CEDAW shadow reports and in reports for Beijing Platform for Action + 10;
- A significant obstacle is the reservations to treaties made by states. It is important to research the impact of reservations on women’s right to housing and their struggles to eliminate violence; and advocate for the removal of reservations to treaties;
- Advocate for the ‘right not to be evicted’; and
- Incorporate RAH elements within the SRVAW’s model domestic violence bill.

Legal strategies at the national level

- Law reform – advocate for new laws for domestic workers; advocate for the inclusion of RAH elements in DV laws;
- Promote the enforcement of laws, where it is reflective of human rights standards;
- Run public interest litigation/test cases;
- Train judiciary, lawyers and police on gender awareness, women’s rights, RAH and VAW (e.g., in Nigeria NGOs developed bench books for judges on the right to housing that included a gender perspective and highlighted the treaty obligations);
- Provide affordable and accessible legal services for women; and
- Advocate for the reconciliation of religious and customary laws with human rights laws.

State regulation

- Of companies, MNCs;
- Of religious institutions/laws; customary law;
- Of working conditions of domestic workers;
- Lobby the government using the tool kit framework; and
- Target government departments which have not been engaged before in issues of VAW (e.g., housing commissions);

National institutions

- Report to the Human Rights Commission/Women's Commission; and
- Train health, social workers, housing authority on gender awareness, women's rights, RAH and VAW.

Social mobilisation/awareness raising

- The work on both RAH and VAW, by different sectors of civil society, can be strengthened conceptually and methodologically through collective strategizing and greater cooperation between groups working on VAW and RAH;
- Develop a common education and mobilisation agenda within both housing rights and VAW sectors;
- Conduct human rights education;
- Raise awareness on urban forced evictions;
- Organise similar consultations on RAH and VAW at the national level; inviting bureaucrats and media to the consultations can be a means of holding them accountable;
- Recognise women as participating members of the community in decision-making;
- Unite the efforts of national NGOs, international NGOs and UN agencies so as to create a stronger network for addressing structural changes (e.g., prior to engaging in dialogue with the Secretary of Housing, an international NGO like COHRE sent letters to the government agencies, which were very successful in eliciting responses from the government); and
- Promote media campaigns nationally and internationally.

Research

- Analysing the implications of space and density on domestic violence;
- Identifying the factors in housing, land, property and inheritance that could stem the cycles of violence women face;
- Systematically collecting empirical data that demonstrate the interlinkages between RAH and VAW, particularly on different vulnerable groups of women; and
- Analysing the impact of states' reservations on CEDAW on the RAH.

Direct action on violators

- Litigation;
- Alternative dispute resolution;
- Paralegal intervention; and
- Community exposure.

Economic strategies

- Develop economic options within which women can access adequate employment opportunities;
- Monitor violations of women's rights by the World Bank, IMF and IFIs; and
- Develop options for alternative housing.

Strategies for Forced Evictions

- Identify which of the evictions can be stopped;
- Enable the community to negotiate/evaluate the eviction plan;
- Advocate for adequate compensation and appropriate resettlement; and
- Provide psychosocial interventions

Actions specific to the SRAH

- Civil society groups to submit responses to the SRAH's questionnaire;
- Civil society groups to assist the SRAH in developing a form for reporting on urgent actions for cases of VAW in the context of RAH violations;
- Civil society groups to collate data (particularly on how women are without secure tenure/how many are homeless, and the numbers of women facing violence within these situations) and testimonies and to document women's experiences of VAW and RAH (people telling their own problems in their own voices, languages and words can be very powerful and more convincing than written materials): at this point there is very limited empirical data collected that demonstrate the interlinkages between RAH and VAW. There is an urgent need for such data to be collated and used to make recommendations for policy and legal reforms;
- Civil society groups to contribute to improving the questionnaire by including questions that will elicit information on the linkages between VAW and RAH;
- SRAH to organise a workshop for governments at the local level and identify and reward governments which can demonstrate examples of best practice in building modern cities that do not evict people;
- SRAH to make a joint statement with Hina Jilani, Special Representative on human rights defenders, on what happens to women when they try to defend their right to adequate housing (e.g., labelled/arrested as terrorists; deported; face VAW);
- SRAH to include in his report an analysis of the conditions of housing and the factors that contribute to VAW, in situations outside the private home e.g., refugee camps; factory dormitories; shelters;
- SRAH to make policy recommendations to states on what are the model provisions for housing rights to be contained in domestic violence bills; analysing the implications of space and density on domestic violence.

Other strategies

- Identify more practical, integrated skills and strategies for addressing both RAH and VAW;
- To develop, in addition to remedial and preventative strategies, transformatory strategies (as highlighted under CEDAW) i.e., strategies that change culture and structures;
- Reflect the joint frameworks (i.e., VAW, RAH, gender equality) in the HIC-HLRN toolkit, in trainings and in reports to governments.
- Establish one-stop crisis centres like those in Malaysia, which are operated through hospital emergency departments which follow a protocol to screen patients and identify victims of domestic violence;
- State provision of more domestic violence shelters.

CONCLUSIONS

“The tree symbolises a home – the roots are a symbol of permanence, stability; the tree provides shelter, nourishment and warmth; it is beautiful and joyous”

Ginger Hancock, USA

The consultation was a consultative process for identifying linkages between VAW and RAH. It was an opportunity to borrow from both disciplines, to identify common and related problems and to ensure the best possible protection for women. The interlinkage allows exploration of manifestations of housing violations, which may not always be “dramatically” violent, but lead to an accumulated deprivation, which might not always be addressed in existing VAW frameworks, as forms of violence. At a parallel level, it leads to recognition and reaffirmation of VAW as a form discrimination against women, which is also not always addressed in the RAH framework. These consequently will result in better protection and interventions for women. This has also led to the sharing of positive strategies for addressing violations of women’s human right.

Overall, the consultations resulted in the following:

- ◆ Strengthened standard-setting at the national and international level, i.e., the right to housing is absent from many laws addressing VAW such as domestic violence act; on the other hand, VAW is absent from housing laws and treaties;
- ◆ Strengthened the tool kit/loss matrix and its application to monitor the interlinkages;
- ◆ Better application of the normative frameworks of housing rights and substantive equality, especially as a preventive measure to pre-empt violations linked to VAW and RAH.
- ◆ Better usage of international treaties (CEDAW, CESC, CERD, CAT) and mechanisms (e.g. Special Rapporteurs) to strategically ensure accountability of states;
- ◆ Increased cooperation and cohesion between women’s groups working on VAW and RAH – it was inspiring to see the increasing solidarity; and
- ◆ A collation of testimonies documenting the different short- and long-term impacts on different vulnerable groups.

The consultations also led to urging more concrete research on areas such as – with more housing space would there be less domestic violence? What factors in equal housing, land, property and inheritance rights that could stem the cycles of violence women face? How does the cycle of living in insecurity contribute to VAW and RAH? Although some work has been done in this field, there is a need for continuous research and dissemination of information already available. Such future work showed the extent to which the consultation was actually a starting point for a process that has a lot more to achieve and offer to the elimination of VAW and the advancement of RAH.

ANNEX A

AGENDA

Regional Consultation on the
**“Interlinkages between Violence against Women and
Women’s Right to Adequate Housing”**
held in cooperation with the UN Special Rapporteur on Adequate Housing
New Delhi, India
28th – 31st October 2003

Agenda:

Part I: Pre Consultation Training, 28th and 29th of October

Part II: The Consultation, 30th and 31st of October

The Pre-Consultation Training

Part I: Pre-Consultation Training, 28th and 29th of October:

(While the Consultation is on the “Interlinkages between Violence against Women and Women’s Right to Adequate Housing”, the Pre-Consultation Training will cover the issues of women’s adequate right to housing and will not focus exclusively on VAW.)

Purpose and Objectives

The central purpose of the Pre-Consultation Training is to strengthen movements working on women’s human rights to housing and land by providing the tools and opportunity for advocacy, and ensuring the development and diffusion of professional skills at monitoring violations, constructing effective arguments and posing solutions to problems and violations. Therefore, the Pre-Consultation Training is designed to contribute more generally to developing the human right to housing culture by building participants’ capacity to analyse and present cases within the human rights framework, using available international law arguments and monitoring mechanisms. The other objectives are:

- present the methodology for monitoring the human right to housing through practical application of the HLRN (Housing and Land Rights Network) Tool Kit and other conceptual tools;
- to help participants articulate within the human rights framework cases of discrimination against women in the housing sphere, including multiple discrimination, in relation to poverty and livelihood, land use, property and inheritance issues, globalisation, development, fundamentalisms, militarisation, and intersectional discrimination;
- to help participants share and diffuse the monitoring and analytical skills and strategic lessons learned throughout their communities at home

Day One, 28th of October:

08:30–09:00	<i>Registration</i>
Session I:	Introduction to the Legal Concepts and Framework of the Human Right to Adequate Housing
09:00–09:20	Overview of program, materials, goals and objectives <i>Joseph Schechla</i>
09:20–09:30	Presentation of self-introduction exercise
09:30–09:45	Participants prepare their concepts of “adequate housing”
09:45–10:30	Participants introduce themselves and their concepts
10:30–10:45	<i>Tea break</i>
10:45–11:30	From human needs to human rights: the legal sources of the human right to adequate housing <i>Miloon Kothari</i>
11:30–13:00	How and what to monitor? The elements of the human right to adequate housing as a monitoring framework <i>Joseph Schechla</i>
13:00–14:00	<i>Lunch</i>
14.00 – 15.00	The “Tool Kit” <i>Joseph Schechla</i>
Session II:	“Unpacking” and Applying the Right to Adequate Housing and Gender: The Elements and Monitoring Framework
15:00–16:30	Nondiscrimination and gender equality in the right to adequate housing <i>Rea Abada Chiongson and Seema Misra</i>
16:30 – 17:20	Contextualising the Tool Kit and Loss Matrix in a gender perspective <i>Enakshi Ganguly Thukral</i>

Participants will be asked to contextualise the essential elements presented in the Tool Kit and Loss Matrix from a gender perspective.

17:20–17:30 Concluding remarks and discussion
Joseph Schechla and Enakshi Ganguly Thukral

Day Two, 29th of October:

Session III: Applying the Framework

09:00–10:30 VAW and violations of women’s human right to adequate housing
Enakshi Ganguly Thukral

10:30–10:45 Tea break

10:45–12:00 Using the HRAH framework in problem-solving strategies
Joseph Schechla and Miloon Kothari

12:00–12:30 Preparing and selecting participant cases for presentation
Joseph Schechla

Participants will be divided into five thematic groups and asked to 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 committed. Participants will learn about the need to focus on the essential elements and to prioritise information.

12:30–14:00 *Lunch (slightly longer to allow for presenters and their groups to prepare and consult with resources persons)*

Session IV: Exchanging Cases and Strategies

14:00–15:30 Presentation of participant cases, followed by discussion
Joseph Schechla

The first three of the groups will present their cases within 15 minutes, and the fellow participants will have the chance to ask questions and propose refinements to the presentations, using their “Tool Kit”. (Time will allow for 10–15 responses and discussion from the audience.)

15:30–15:45 *Tea Break*

15:45–17:00 Presentation of participant cases, followed by discussion
Joseph Schechla

The last two groups will present their cases within 15 minutes, and the fellow participants will have the chance to ask questions and propose refinements to the presentations, using their “Tool Kit”.

17:00–17:30

Concluding remarks and discussion

Joseph Schechla, Enakshi Ganguly Thukral and Miloon Kotbari

The Consultation

Part II: The Consultation, 30th and 31st of October

Purpose and Objectives

- To examine the interlinkages between violence against women (VAW) and women's right to housing (RAH) in order to promote substantive equality for women and thereby inform the normative content of the RAH.
- To create a platform to exchange approaches and strategies so as to mutually strengthen women's groups working on VAW and women's RAH, for the advancement of women's human rights.
- To provide preliminary findings and recommendations for the report of the UN Special Rapporteur on Adequate Housing (SRAH) for 2005 on women and housing, state accountability and strategies for follow-up.
- To examine issues of state and non-state actors' accountability with respect to VAW and women's RAH.

Day Three, 30th October

9:00 – 9:15

Welcome Address: *Yamini and Malavika Vartak*

Session I:

Using the UN Human Rights Mechanisms: Overview of the UNSR-Right to Adequate Housing's Mandate and Reports

09:15–10:00

UN Special Rapporteur on adequate housing: mandate and reporting
Miloon Kothari

10:00–10:15

Tea break

Session II:

Testimonies to Special Rapporteur

For the testimonies, presenters will be given 15 minutes each to present the elements of their case. A responding panel will summarise the highlights and gaps in the testimonies, based on the methodology identified during the training and identify specific follow-up questions. After the presenters have responded to the panel's questions, the discussion will be opened up to the floor.

- 10:15–12:30 **Testimonies on domestic violence**
 Presenters: *Ivy Josiah, Malaysia; Ketevan Dadunashvili, Georgia; K. Yogeshwary, Sri Lanka; Enkhjargal Davaasuren, Mongolia.*
 Panel: *Rea Abada Chionson (Chair), Anuradha Rajan, Miloon Kothari*
- 12:30–13:30 *Lunch*
- 13:30–14:45 **Testimonies on armed/ethnic conflict, militarism and fundamentalism**
 Presenters: *Nang Lao Liang Won, Burma; Pramila N. Parmar, India; Hemanta Dahal, Nepal.*
 Panel: *Mary Jane Real (Chair), Sima Samar, Miloon Kothari*
- 14:45–15:00 *Tea break*
- 15:00–17:00 **Testimonies on discrimination and segregation in eviction and housing**
 Presenters: *Sri Wiyanti Eddyono, Indonesia; Yogamberam Engalsevi, Sri Lanka.*
 Panel: *Joseph Schechla (Chair), Seema Misra, Miloon Kothari, Ahmad Nader Nadery*
- 17:00–17:30 *Wrap-up*

Day Four, 31st October:

Testimonies to Special Rapporteur, Session II, continued

- 09:00–10:30 **Testimonies on legal and cultural obstacles to land, inheritance and property rights of women**
 Presenters: *Dulibai, India; Ratna Shrestha, Nepal; Ferdousi Akhter, Bangladesh.*
 Panel: *Enakshi Ganguly Thukral (Chair), Joseph Schechla, Miloon Kothari*
- 10:30–10:45 *Tea break*
- 10:45–12:30 ***Testimonies on Globalisation***
 Presenters: *Nor Aeri, Thailand; Kasinee Kwangcharoen, Thailand; Connie Regaldo Hong Kong; Young Sook Cho, Korea; Emelina Salamanca Philippines.*
 Panel: *Mary Jane Real (Chair), Miloon Kothari*

12:30–13:30

Lunch

Session III:

VAW and RAH Framework: Identifying Trends, Patterns, Obstacles and Future Strategies for Advocacy

Joseph Schechla and Rea Abada Chiongson

13:30-16:30

Based on the testimonies and related discussions, participants and resource persons will identify

- trends, patterns and obstacles in the linkages between VAW and RAH
- how the above can be translated into the elements of the framework, and into the normative content of the RAH
- strategies for advocacy; and
- reflections on the consultation.

Session V

Concluding Session (Public/Media)

16:30 – 17:45

Presentation of the discussion paper on the “Interlinkages between VAW and RAH” by keynote speaker

Dr. Sima Samar – Chairperson, Afghan Independent Human Rights Commission

Concluding Comments: Summarising the outcomes of the consultation

Miloon Kothari

ANNEX B

TOOL KIT



HLRC HOUSING RIGHTS MONITORING TOOL KIT*

Entitlement	Source	Overriding principles	Guarantee	Threats obstacles	Victimization vulnerability	Impact, consequences	Duty holder	Action, intervention ¹
General Comment 4								
1. Security of tenure	International customary law	Self-determination	Ratification of international and regional human rights instruments	No law	Who?	(See subtool: Loss Matrix for method of quantifying costs)	Responsible parties:	(See Strategic Action & Solution Menu of > 100 options with 'subtools')
2. Public goods & services	Human rights & other treaty law	Non-discrimination	Constitution, national legislation, regulations, municipal ordinance	Bad law	Vulnerable and affected groups	Material (victims):	Primary:	Human rights education:
3. Environmental goods & services, incl. land & water	Regional human rights instruments	Gender equality	Policies	Inadequate enforcement	What type?	Nonmaterial (victims):	To avoid depriving	Gender training:
4. Affordability, finance	Emerging norms	Rule of law	Programs	Globalisation pressures	Why?	Material (others):	To protect from deprivation	Legal education:
5. Habitability		Non-retrogression	Institutions ²	Privatisation of services		Nonmaterial (others):	To aid the deprived	Social mobilization
6. Accessibility (physical)			Budgets	Armed conflict			Secondary:	Legal action
7. Location				Natural disaster			IFIs	Cooperation with UN bodies
8. Cultural appropriateness				Discrimination			MNCs	Media work, etc.
9. Freedom from dispossession							Local authorities	
10. Information, capacity & capacity-building							Private agents	
11. Participation & self-expression							Community	
12. Resettlement								
13. Safe environment								
14. Security (physical) & privacy								

¹ What, by whom & when. See "Task Chart."

² 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 institutions, 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."

* This version of the HIC-HLRN Tool Kit was provided to participants. However, the Tool Kit will be revised in light of the findings of the consultations, to ensure the discrimination and violence women face in situations of housing rights violations are identified more comprehensively.

ANNEX C

LOSS MATRIX



Habitat International Coalition

Housing and Land Rights Committee

Quantifying Violations to the Right to Adequate Housing

A Tool for Evaluating the Effects of Housing Rights Violations

Introduction:

The purpose of this matrix is to help determine the value of losses that victims of housing rights violations incur. Using this tool will aid in the various necessary stages of proper monitoring and resolving specific violations in implementing the right to housing, including:

1. Documentation and recording
2. Monitoring and reporting
3. Quantifying/evaluating
4. Identifying and solving problems
5. Follow-up assessments
6. Fact-finding missions
7. Public information and campaigns
8. Social mobilisation
9. Media work
10. Compensation efforts
11. Legal defense and prosecution
12. Monitoring international obligations

It is intended that the methods described here aid human rights workers responsible for each aspect of the monitoring process. These stages may involve the same individual human rights worker at each stage, or may involve a division of team labour. In either case, this matrix also can serve as a tool for organizing tasks so as to facilitate coordination when more than one individual or organisation is involved in the process.

This particular tool addresses the material and nonmaterial elements of loss that arise from violations of housing rights. Whether or not your monitoring objective is legal defense, policy analysis, compensation or public information, the quantification of the effects of the violation strengthens your argument and, consequently, helps to mobilise support for the movement to end, redress and compensate/obtain restitution for the violations.

The material and otherwise-calculable costs resulting from the violation are determined for each unit (household) affected, and then the units are totaled. Alternatively, in the case of large-scale violations affecting many multiple units, a representative sample should be obtained to determine the average values, which then are to be multiplied by actual numbers or increments of units affected.

Other, nonmaterial and incalculable losses still have to be recorded and reported in narrative terms. Such narrative explanation and analysis will be useful as an accompaniment to the quantification table.

It is recommended that the method derive from existing standards found in insurance and divorce laws to determine losses for compensation and settlement purposes. It would be helpful to derive such a composite from a sampling of methods drawn from the laws in countries, particularly those practicing such violations. For example, Kenya, United States, Israel, Brazil and India could form such a pool.

Both short- and long-term values are to be assessed. This calls for both a great deal of cooperation between the monitor(s) and the affected community, as well as a continuous relationship over time. In order to capture many of the values, monitoring over time is required, not just by a single site visit. It is therefore recommended that such monitoring be undertaken and/or coordinated by those who maintain a long-standing program and commitment to the affected community and the issues involved.

This tool seeks to quantify the costs of victims, as well as public, or social costs. For our purposes, the principal victim(s) would be those persons whose property and lives are directly affected by the act, be it a demolition, confiscation and/or eviction. (This tool would be used for all categories of violation.) Ancillary or indirect victims would be those who undergo the cost or other harm as a result of an act intended or directed at others. The indirect victims' losses and damage should be included in the overall assessment of the violation's effects. Public costs are those affecting the public budget or other public resources. The social costs involve the negative affects to social well-being, such as illness, morale, crime and security, racism or interethnic tension.

The middle column of the table, entitled "Methodology," is intended to contain the guiding rationale for arriving at the values contained in the cost column. For example, when facing a choice between market value or replacement cost of a material loss, the latter is preferable. It is there that the user enters the type of items or values totaled under the particular type of cost/loss. There, too, one would cite whether or not the values are losses/costs to the principal victims only, or include those of indirect victims, such as those enduring collateral damage from a house demolition. The "Methodology" description should be as complete but concise as possible, within a short line or two. In addition to providing justification, it also ensures continuity and consistency.

It is possible and advisable to modify this tool to meet the user's local conditions. For example, the direct and indirect victims' losses may need to be separately calculated for some reason. In that case, an additional column can be added. In any case, however, it is important to arrive at a global cost figure for the violations under review. The column at the far right under each category of cost should be totaled using the imbedded Excel formula.

Besides providing a more complete methodology for capturing the impact of housing rights violations, this tool is intended as a contribution to the capacity of each organization that uses it. The Habitat International Coalition and its members have developed this methodology to assist each other in their common profession of advancing human rights to housing. We recognise that by adapting the guidelines for a housing right-monitoring methodology proposed here, those who share our profession will be able to deliver more reliable data and, thereby, enhance their own credibility. All of these advantages point to the central objectives, which are to help our various publics understand the consequences of violating this right, and to seek remedies for the human victims.

Contents and Methodology for Determining Each Category of Loss/Costs

Victims' Material Losses

The structure:

The fair market value of the house, shelter or other structure(s). This is probably greater than the cost, as indicated in official records of the most recent tax assessment, for example. That price may be a guide, but is likely to be out-of-date with the value that would be obtained if the property were to be sold on the market. The market value would also likely be less than the "speculative value", which is considered to be that value (price) that a speculator, investor or other interested party would anticipate after the demolition/eviction and after converting the structure--if partially retained--for eventual exchange or reassessment. The reference for determining the market value would be reliable real estate agents, banks, or other parties involved in the sale and exchange of such properties. The standard methodology would involve collecting three quotes/estimates and selecting the average, or taking the middle quote as the fair market value.

In the unlikely event that no such property market is actively issuing quotes on the value of the affected property, the remaining alternative method for determining market value would be the estimated cost of replacing the property at current market values.

Note that the victim incurring the loss in this case would be the owner(s) and/or title holder(s), including those owning the property individually, or collectively, under formal title, or by traditional tenure systems.

Plot:

The plot and the structure are considered separately in this methodology to accommodate systems where the two aspects of property value are determined separately, or by different methods. For example, a cooperative arrangement may provide for outright title to the structure, but a "share" of the land area under it. It also allows for disaggregating these values in the event of a dispute over one and not the other. In the event that the structure and the land are both held in title by the same owner and the values are customarily assessed in combination, the structure and plot values could be combined in the matrix.

The eviction and/or demolition may not involve the dispossession of land title or ownership of the plot on which the structure stands. In that case, the evaluator would proceed to the next categories and not enter a value for the plot. However, in some cases, such as in Israel, the land plot under a demolished structure may, perforce, be assumed by, or "revert to", the state as "state land" or "national land". The evaluator must be familiar with the local laws and regulations to determine if that is the case in the event of an eviction or demolition. That may determine whether or not a value is entered in this category of the matrix or not.

In the case of a housing plot being confiscated by the state, determining the value of that plot may be difficult if, again, no market value can be determined for the affected area. In that case, the methodology would involve determining the cost at current market value of a comparable site in another location.

Contents:

Each affected party should cooperate with the field workers to provide an inventory of the actual contents lost and damaged in the demolition. The value of those contents for this quantification purpose is the replacement value of the items, not the market value. The contents (furniture, clothing, foodstuffs, electronics, housewares items, etc.) would be subject to depreciation and the resale or fair-exchange values would not be sufficient to cover the cost of replacement. The replacement value represents the actual cost of repurchasing items comparable in quality to those lost or damaged by the demolition. (For heirlooms and other items of sentimental value, a replacement cost should be included in this category; however, the nonmaterial loss or irreplaceability should be expressed in the “Victims’ Nonmaterial Losses” section of the matrix, with a narrative either included in the matrix or attached to it.

Collateral damage:

This section of the matrix allows for inclusion of the material losses to the indirect victims in particular, including neighbors’ and public property that are affected by the act. In cases of violent eviction or demolition, using bulldozer or explosives, for example, nearby property can be destroyed or damaged in varying degrees.

Infrastructure:

This section refers to services and other infrastructure lost in the demolition/eviction/confiscation that would have to be replaced after the event. For example, electricity provided at the original site may have to be replaced by a generator or energy purchased from an alternate source. Water, previously available from installed or nearby facilities, may have to be replaced by purchasing water or hauling it from another source. The resulting added cost – including the relative cost of labor at the going rate of such work for hire, which is beyond the existing regular costs of obtaining the same – is the value to be calculated here.

Business losses:

If the demolition/eviction/confiscation results in the loss of a business, or a portion of business, that cost is to be included here. Those losses are the subject of subcategories to be detailed below.

Equipment/inventory:

This includes the value of machinery and equipment, other installations, such as furnishings and built-ins, as well as all stocks and supplies. This should include also the property belonging to others lost or damaged in the event. For example, a laundry or repair service would hold clients’ property to be processed and returned. The values of those items are also to be included in this figure.

Prospective income:

The loss resulting from inability to deliver goods and services, and the anticipated profit from existing stores, orders, contracts, etc. that would be unfulfilled due to the event. The short- and long-term effects are to be calculated by different methods. This category of loss follows the method developed locally for determining “goodwill” as an asset, which would include the projected income from a pattern of business developed through the lifetime of the enterprise. [Refer to insurance law methods.]

Mortgage, other debts and penalties:

The demolition/eviction/confiscation removes the owner’s relationship with the land and/or structure, contents, livestock, inventory and other matters of material value, such as materials and work performed for physical improvement to the property. However, the event does not relieve the owner from responsibility to repay for those values obtained on a credit basis. Those values, including any penalties and increased interest resulting from the event, are to be included here for both the short- and long-term. If a situation prevails, as in many legal systems, that a debtor relinquishes claims (as in a natural disaster, for example), then that cost should nonetheless be calculated and listed under the category of “Other than Victim’s Losses.”

Livestock:

The value of livestock lost and the treatment of those injured by the event is calculated here. This would include also the labor costs for time spent in rounding up dispersed livestock at the rate of pay for such work for hire. The calculus for these values includes the loss of anticipated returns from normal sale of, and/or produce from the animals, including their normally anticipated progeny over the short- and long-term. In the case of the animals’ value as beasts of burden, the returns on their labor are to be included in the figures provided under lost revenue, increased transportation costs, returns from crop loss, or other appropriate category.

Land:

The landed property not associated with the affected structure itself is to be calculated on the basis of fair market value, as with the structure and its plot entered above. This could be land adjacent to the dwelling or other affected structure, or land confiscated separately. This land could be lost entirely through confiscation, or its value could be reduced as a result of the eviction or demolition. In the case of eviction, land title might not be lost outright, but the conditions created by the eviction may prevent the owner(s) from returning to or reclaiming their land. In that case, the land in question would be calculated as an outright loss.

Trees/crops:

The value of a lost or damaged nonfruit-bearing, or otherwise unharvestable tree or other vegetation, would be determined by the cost of purchasing and replanting a comparable replacement. The nonmaterial, aesthetic, or sentimental value of the tree or other vegetation would be included by narrative in the Victim’s Nonmaterial Losses item under Environment or Heritage, as appropriate. The value of harvestable trees and

crops would include the value of the replacement itself for fruit-bearing trees and crops, as well as the (short- and long-term) value of the harvest. The loss of timber would be calculated accordingly also, with the value being the anticipated return from the harvesting or sale of the tree itself.

The ecological loss of vegetation, depending on the nature of the event—if demolition were by fire or other destructive means—also carries a value. Ecological damage is calculated on the basis of the restoration costs entailed. Collateral damage to wildlife and other natural assets, owing to the damage and the time required to restore it, may be of both a calculable and incalculable loss. Where possible, such calculable values should be included here. Otherwise, those losses are to be recorded in the narrative section of both the Victim's and Nonvictim's Nonmaterial Losses, for those losses would be of a more public nature.

Lost/decreased wages/income:

The loss of a home, including subsequent short- or long-term resettlement, may involve the loss of livelihood, whether that livelihood is linked to the dwelling and/or land lost. In any event, wages would inevitably be lost (to victim or her/his employer) for nonproductive time attending to the event and its aftermath. Resettlement can lead to loss of a job or jobs altogether, or necessitate securing alternative employment, especially if temporary or long-term resettlement is far from the regular workplace. To calculate that value, one would subtract the short- and long-term wages and other income of affected persons from the normal, anticipated wages and other income before the event. Since obtaining new employment and other income involves a loss of certain benefits, such as accumulated vacation leave, seniority and other benefits, the relative loss of those values should be included here if calculable. Job seniority may not be calculable value in monetary terms if it involves merely standing vis-à-vis colleagues. However, if that seniority arguably would have led to promotion with material effect in the short or long terms, that value is to be factored here as well.

Health care:

The event itself or its aftermath may have negative health consequences. Social science has recorded the effects of eviction and resettlement upon the increased mortality and morbidity rates of the affected communities. While these notable consequences belong among the Victim's Nonmaterial Losses, the care for these consequences has clearly calculable values. The loss of life, limb and other health effects are the subject of the laws of states for the purposes of calculating victim compensation in insurance and other cases involving law suits. A sample of such methods taken from such statutes could form a composite methodology for calculating victims' health losses here.

Overcrowding, such as in interim or alternative housing arrangements, often leads to negative health consequences for those evicted, as well as for those providing the alternative shelter in their own quarters. The care and treatment of these health consequences (such as influenza, scabies, malnutrition, etc.) are an additional value added to these health care costs.

Interim housing:

Eviction, confiscation and demolition victims often seek alternative housing with relatives or friends, either within the community or elsewhere. This housing has a value, which is to be calculated on the basis of fair rental rates for such shelter, whether rent is paid or not. It remains a cost and value that is subsidised in one form or another. It also can lead to an actual expanded definition of what constitutes the victim, for persons and groups offering assistance in various forms can be counted as second-tier victims by virtue of the loss – voluntary or otherwise – incurred as a result of servicing the persons directly affected by the eviction, confiscation or demolition.

Bureaucratic and legal fees:

While under threat of a violation, such as eviction, demolition and confiscation, the eventual victim would likely undergo costs related to both time spent and out-of-pocket costs in order to restrain or defend against the impending violation (if the threat is known in advance). Both the time and monetary costs incurred by both bureaucratic processes and legal advice and defense work should be quantified. Even if the legal advice given is free of charge to the affected person(s), those rendering the advice (NGO, CBO, other *pro bono* service) should put a value on that service for the purposes of this costing exercise. (The costs of bureaucratic efforts by public personnel is determined below under “Other than Victims’ Nonmaterial Costs”.)

Before the victim(s) can restore their proper housing, s/he conventionally undergoes a procedure and cost toward obtaining a license to rebuild or otherwise restore a dwelling. The costs incurred in this process, including fees, legal services, bribes and other out-of-pocket expenses should be included as a category in its own right.

Alternative/replacement housing:

The cost of securing comparable housing on a permanent basis is represented here. (Temporary lodging costs are treated below under “Interim Housing.”) The comparable housing is meant to include a dwelling with similar spatial dimensions, infrastructure, location and services as the home lost in the violation. This may involve calculation of the replaceable features of the original dwelling with some adjustments, depending on circumstances. For instance, a comparable dwelling space may be found near the source of livelihood, but may be in a differently-priced market, and the adjusted figure would account for that. That dwelling may be comparable in most aspects, but lack services or infrastructure. In that case, the cost of obtaining the replacement services or infrastructure at the local rate would have to be added. Likewise, if the replacement housing is comparable to the original dwelling lost, but its location is less convenient for commuting to one’s source of livelihood or family and original community members, that additional transportation cost would be included in the “Transportation” item below.

Since this category of cost is of a more-or-less permanent nature, it should be cited in the “Long-term” cost column of the matrix. Typically, obtaining permanent replacement housing is a lengthy process; therefore, calculating this cost would be a subject of, and a further argument for, follow-up monitoring of violation cases.

Resettlement:

The expenses of traveling and transport of goods to both interim and replacement housing sites form part of the resettlement cost. This, too, would likely involve effort and time on the part of several persons – with equivalent values – in order to locate and secure the short- and long-term housing alternatives. All related costs should be calculated as much as possible.

Transportation costs:

This category is the amount of difference between the amounts spent on transportation as a result of the eviction, demolition or confiscation and the amounts spent (if any) on transportation in the normal conduct of life at the original place of residence. Such values include expenses *and* time spent commuting to and from the source of livelihood, visiting family and community members, going to market, carrying out cultural and religious activities, visiting grave sites, conducting other official or private business, etc.

Victims' Nonmaterial Losses

Health

Living space

Reconstruction licensing

Psychological harm

Disintegration of family

Loss of community (including support systems, child-care arrangements, domestic division of labor, etc.)

Investment in infrastructure (e.g., electricity, water, transport, roads)

Investment in sanitation and waste-management systems

Investment in security protection systems

Investment in educational infrastructure

Heritage:

For heirlooms and other items of sentimental value, a replacement cost should be included in this category; however, the nonmaterial loss or irreplaceability should be expressed in the "Victims' Nonmaterial Losses" section of the matrix, with a narrative either included in the matrix or attached to it.

Environment/ecology

Standing/seniority

Political marginalisation

Social marginalisation

Further vulnerabilities

Other-than-Victims' Material Costs

Police

Bulldozers

Lawyers

Army

Other forces

Bureaucratic and personnel costs

Other-than-Victims' Nonmaterial Costs

Political legitimacy

Social costs

Rebellion

House Demolition Evaluation Matrix				
Type of cost/loss	Methodology	Short-term	Long-term	
Victims' Material Losses				
Structure				
Plot				
Contents				
Collateral damage				
Infrastructure				
Business losses				
Equipment/inventory				
Prospective income				
Mortgage, other debt penalties				
Livestock				
Land				
Trees/crops				
Lost/decreased wages/income				
Health care				
Interim housing				
Bureaucratic and legal fees				
Alternative housing				
Resettlement				
Transportation costs				
Subtotal				
Victims' Nonmaterial Losses				
Health				
Living space				
Reconstruction licensing				
Psychological harm				
Disintegration of family				
Loss of community				
Inheritance				
Environment/ecology				
Standing/seniority				
Political marginalisation				
Social marginalisation				
Further vulnerabilities				
Other-than-Victims' Material Costs				
Police				
Bulldozers				
Lawyers				
Army				
Other forces				
Bureaucratic and personnel				
Subtotal				
Other-than-Victims' Nonmaterial Costs				
Political legitimacy				
Social costs				
Rebellion				
Subtotal				

Forced Eviction Evaluation Matrix				
Type of cost/loss	Methodology	Short-term	Long-term	
Victims' Material Losses				
Structure				
Plot				
Contents				
Infrastructure				
Business losses				
Equipment/inventory				
Prospective income				
Mortgage, other debt penalties				
Livestock				
Land				
Trees/crops				
Lost/decreased wages/income				
Health care				
Interim housing				
Bureaucratic and legal fees				
Alternative housing				
Resettlement				
Transportation costs				
Subtotal				
Victims' Nonmaterial Losses				
Health				
Living space				
Reconstruction licensing				
Psychological harm				
Disintegration of family				
Loss of community				
Inheritance				
Environment/ecology				
Standing/seniority				
Political marginalisation				
Social marginalisation				
Further vulnerabilities				
Subtotal				
Other-than-Victims' Material Costs				
Police				
Bulldozers				
Lawyers				
Army				
Other forces				
Bureaucratic and personnel				
Other-than-Victims' Nonmaterial Costs				
Political legitimacy				
Social costs				
Rebellion				
Subtotal				

Confiscation Evaluation Matrix				
Type of cost/loss	Methodology	Short-term	Long-term	
Victims' Material Losses				
Structure				
Plot				
Contents				
Infrastructure				
Business losses				
Equipment/inventory				
Prospective income				
Mortgage, other debt penalties				
Livestock				
Land				
Trees/crops				
Lost/decreased wages/income				
Health care				
Interim housing				
Bureaucratic and legal fees				
Alternative housing				
Resettlement				
Transportation costs				
Subtotal				
Victims' Nonmaterial Losses				
Health				
Living space				
Reconstruction licensing				
Psychological harm				
Disintegration of family				
Loss of community				
Inheritance				
Environment/ecology				
Standing/seniority				
Political marginalisation				
Social marginalisation				
Further vulnerabilities				
Subtotal				
Other-than-Victims' Material Costs				
Police				
Bulldozers				
Lawyers				
Army				
Other forces				
Bureaucratic and personnel				
Subtotal				
Other-than-Victims' Nonmaterial Costs				
Political legitimacy				
Social costs				
Rebellion				
Subtotal				

ANNEX D

APPLICATIONS OF THE TOOL KIT

APPLICATIONS OF THE TOOL KIT

Participants were divided into thematic groups and applied the tool kit to an issue of their choice. This process was intended to enable participants to apply the tool kit/loss matrix methodology, and understand how they might apply the methodology in preparation for their testimonies for the consultations. The applications are provided below as examples of how the tool kit can be applied in different scenarios. The different approaches also demonstrate the flexible nature of the tool kit.

Group 1 – Domestic violence against domestic workers (Members – Jane, Anuradha, Enkhjargal, Ferdousi)

Entitlement	Sources	Guarantee	Threats, obstacles, causes, contributing factors	Vulnerability/victimisation	Impact	Duty Holder	Action
1. Security (physical) <ul style="list-style-type: none"> expand to include psychological, emotional, mental & sexual security 	CESCR CEDAW	<ul style="list-style-type: none"> ratified conventions CEDAW/CESCR/CRC (for child domestic workers) no national law specifically for domestic workers labour law provisions penal code provisions 	<ul style="list-style-type: none"> no national law no recognition of domestic workers armed conflict/displaced globalisation leading to increased migration market economy natural disaster lack of adequate housing attitude of employer low status of women 	<ul style="list-style-type: none"> all kinds of women, all ages young children adolescent girls adolescent boys poor migrant worker displaced person refugee women rural students 	<ul style="list-style-type: none"> lack of access to education unwanted pregnancy abandoned kids unsafe abortion low self-esteem poor health bad reputation in society the home where they work is not a safe place to prevent sexual violence – no sleeping space, security, privacy vulnerability to VAW because of lack of identified living space lack of access to justice when violence is committed because cannot leave home 	<ul style="list-style-type: none"> UN state employer police community family media trade union 	<ul style="list-style-type: none"> enactment of national law recognition of domestic workers rights as workers awareness raising of employer, employee and public economic options collectives/unions for domestic workers State regulation of working conditions of domestic workers including provision of adequate housing (e.g. identify the number of square feet for a room) separate sleeping room) monitoring of World Bank and other financial institutions training of police
2. Affordability <ul style="list-style-type: none"> finance adequate wages 	ILO						

**Group 2 – Eviction of urban settlers
(Members - Ivy, Ratna, Wiyanti, Yogeshwari, Selvi)**

Entitlement	Sources	Guarantee	Threats, obstacles, causes, contributing factors	Vulnerability/victimisation	Impact
<ul style="list-style-type: none"> ▪ security of tenure ▪ public goods and services ▪ safety ▪ freedom from dispossession 	<ul style="list-style-type: none"> ▪ CEDAW ▪ international customary law ▪ constitution ▪ CERD (to bring in intersectional effect) 	<ul style="list-style-type: none"> ▪ ratification of CEDAW ▪ constitution ▪ policies and programs ▪ institutions ▪ budgets 	<ul style="list-style-type: none"> ▪ conflict between laws ▪ non-implementation of laws ▪ social stigma on poor people ▪ limited national budget for giving housing to poor ▪ status of women ▪ lack of laws to protect women 	<ul style="list-style-type: none"> ▪ poor community ▪ single mother ▪ prostitute ▪ girl child – when alone at home ▪ vulnerable to sexual violence and rape ▪ Several other groups become even more marginalised, as a result of religion, ethnicity, class, caste etc.(e.g. in Indonesia segregation of Batak tribe) 	<p>Before eviction</p> <ul style="list-style-type: none"> ▪ intimidation through rape and murder of women ▪ control of women ▪ no participation of women ▪ no power ▪ constant threat ▪ DV ▪ tensions in the home ▪ fewer resources <p>During eviction</p> <ul style="list-style-type: none"> ▪ women are targets - women are in the first line, but police still beat them ▪ threats ▪ rape ▪ sexual harassment ▪ material costs ▪ - loss of home ▪ - loss of utensils/ belongings ▪ - fewer resources <p>After eviction</p> <ul style="list-style-type: none"> ▪ no home ▪ no job ▪ less food ▪ less education ▪ more housework ▪ more burden of care on women ▪ separation from community ▪ DV ▪ fewer resources

Rights	Impact before eviction	Violator	Action
<ul style="list-style-type: none"> ▪ security of tenure ▪ safety ▪ health 	<p>Family</p> <ul style="list-style-type: none"> ▪ DV ▪ tensions in the family <p>Community</p> <ul style="list-style-type: none"> ▪ no participation ▪ no power to deal ▪ separation <p>State</p> <ul style="list-style-type: none"> ▪ police/paramilitary violence ▪ intimidation ▪ threats 	<p>family members men</p> <p>leader women themselves NGO - gender blind</p> <p>police local government private sectors</p> <p>Duty Holder</p>	<p>awareness programs a member of the community</p> <p>gender and legal advice gender awareness women's groups work more with housing groups and vice versa.</p> <p>to negotiate/evaluate the plan to evict which of the evictions can be stopped consult women before eviction on design of resettlement</p>
		<ul style="list-style-type: none"> ▪ government ▪ parliament ▪ local council ▪ ministry of education ▪ police 	<ul style="list-style-type: none"> ▪ working towards developing the right to not be evicted. ▪ law reform ▪ increase alternative housing ▪ compensation ▪ resettlement

**Group 3 – Armed/ethnic conflict, militarism, fundamentalism (displacement of nomadic, tribals, refugees)
(Members - Ramila, Pramila, Dholi, Hemanta, Joseph)**

Entitlement	Guarantee	Threats, obstacles, causes, contributing factors	Impact	Duty Holder	Action
Security of tenure	Note: the draft declaration of indigenous peoples is an important source for the right to self-determination	<ul style="list-style-type: none"> threat or actual lack of tenure denied secure tenure 		<ul style="list-style-type: none"> state (prosecution, parliament, police and security forces) communities religious communities ethnic leadership 	<ul style="list-style-type: none"> regime change international intervention all possible local remedies
Public goods and services	Public distribution system	<ul style="list-style-type: none"> poor infrastructure due to discrimination and conflict they can't leave their home to access the services not counted in census no recognized address, therefore no ration card (also violates civil and political rights) 	No benefit from public distribution		
Environmental goods and services	Landowners have title in original place	<ul style="list-style-type: none"> expulsions 	<ul style="list-style-type: none"> denied land and access no access to materials from environment for housing (nomads) 		

Entitlement	Guarantee	Threats, obstacles, causes, contributing factors	Impact	Duty Holder	Action
Affordability	Government programs - pay compensation for displaced	<ul style="list-style-type: none"> compensation not sufficient forced to find housing on market, which is more expensive subsidies given to men and male heads of family 	<ul style="list-style-type: none"> women & women-headed households denied compensation deepening impoverishment generally 		
Habitability	Local zoning & bldg. standards	<ul style="list-style-type: none"> simple huts for refugees density in camps 	<ul style="list-style-type: none"> insufficient protection from elements, leading to illness 		
Accessibility	Public projects in place	<ul style="list-style-type: none"> poor infrastructure for access displacement far from home no security for women passes required to leave refugee camp rebels prevent movement in and out of camps for any pretext, entire community is vilified and forced to move to inappropriate areas; moved far from work, and sometimes nearer to the conflict when people are moved, their new neighbours prevent them from having access limited economic opportunities 	<ul style="list-style-type: none"> women and girls subjected to additional physical danger and threat general immobility increased impoverishment 		
Cultural appropriateness		<ul style="list-style-type: none"> dislocation institutional threat see-through walls in refugee camps 	<ul style="list-style-type: none"> lack of work for girls leads to early marriage loss of identity for land-based people 		
Freedom from dispossession		<ul style="list-style-type: none"> displacement expulsions house burning confiscation 	<ul style="list-style-type: none"> loss of all property 		

Entitlement	Guarantee	Threats, obstacles, causes, contributing factors	Impact	Duty Holder	Action
Information	Government programs	<ul style="list-style-type: none"> ▪ exclusive certain ethnic group(s) make all the decisions ▪ people not allowed to be aware of rights ▪ affected people not aware of what government programs exist 	<ul style="list-style-type: none"> ▪ no benefits from existing public provisions ▪ women least and last informed 		
Participation and self-expression	Constitution guarantees	<ul style="list-style-type: none"> ▪ literacy and other educational program in camps, due to humanitarian assistance programs ▪ in (official level) "Verification Missions" only men interviewed 	<ul style="list-style-type: none"> ▪ women able to express selves & participate more than before (community level) ▪ women ignored at official level 		
Resettlement	Election time give voting cards	<ul style="list-style-type: none"> ▪ voting cards distributed at election times, creating false expectation that they provide bonafides for residence ▪ self-resettlement ▪ refugee conditions ▪ no permanent status 	<ul style="list-style-type: none"> ▪ statelessness without protection or public provision 		
Safe and clean environment		<ul style="list-style-type: none"> ▪ displaced people have to cut wood for cooking ▪ no infrastructure (sanitation) ▪ corruption and discrimination leave the affected community with only lowest quality of land available ▪ resettlement environment is poor (flooding, drainage, vermin, etc.) ▪ resettle in banana housing 	<ul style="list-style-type: none"> ▪ viruses, illness (e.g., conjunctivitis) 		
Safety and privacy		<ul style="list-style-type: none"> ▪ armed gangs ▪ poor housing (see-through construction) 	<ul style="list-style-type: none"> ▪ general lack of privacy and security, esp. affecting women and girls 		

**Group 4 – Globalisation – modernisation of railways
(Members – Connie, Kay, Nor Aeri, Emelita, Tay Tay, Rea)**

Entitlement	Source	Over riding principles	Guarantee	Threats, obstacles, causes, contributing factors	Victimisation/Vulnerability	Impacts/consequences	Duty Holder	Action
<ul style="list-style-type: none"> ▪ security of land tenure ▪ resettlement ▪ information/participation ▪ public goods and services ▪ location ▪ safe environment ▪ security/privacy ▪ environmental goods and services ▪ freedom from dispossession ▪ habitability ▪ accessibility 	International instruments as mentioned in matrix	As identified in matrix	All ratified instruments Constitution National laws	<ul style="list-style-type: none"> ▪ implementation of GATT-WTO policies ▪ discrimination ▪ corruption – in infrastructure projects ▪ investors and developers have to bribe local officials to get approval ▪ militarisation - because have to remove houses of slum dwellers – 200,000 families so eviction will not be peaceful ▪ anti-terrorism campaign affecting people's and women's movements ▪ restriction to civil society (e.g. no permit, no rally) ▪ media block-out ▪ profiling such as dark influence and red scare (i.e. if you are an activist then you are a communist) 	<ul style="list-style-type: none"> ▪ all 200,000 families, especially women and children ▪ marginalised groups such as squatters, slum dwellers ▪ informal sectors 	<ul style="list-style-type: none"> ▪ displacement & forced relocation ▪ forced migration (internally and o seas) ▪ disintegration of families and burden on women to keep families together ▪ feminisation of labour migration (57% women) ▪ loss of livelihood forced into dirty, difficult, dangerous jobs ▪ victimised for being trafficked 	<ul style="list-style-type: none"> ▪ primary DH: state (police, military, local authority) ▪ secondary DH: private sector (developer, IFIS) ▪ violators: state, private actors, males in the home and community 	<ul style="list-style-type: none"> ▪ social mobilisation (strong peoples movement) ▪ judicial intervention ▪ gender sensitivity training at all levels (law enforcers, people, health, social workers, housing authority etc.) ▪ paralegal training ▪ media campaign (international/ local) ▪ community -based action (human rights education)

Entitlement	Source	Over-riding principles	Guarantee	Threats, obstacles, causes, contributing factors	Victimisation/Vulnerability	Impacts/consequences	Duty Holder	Action
						<ul style="list-style-type: none"> ▪ lack of access to services (health, education, facilities) ▪ loss of properties ▪ loss of lives ▪ lack of protection from local authorities ▪ violence - street violence, DV, psychological, physical ▪ adds multiple burden on women 		<ul style="list-style-type: none"> ▪ psychosocial interventions ▪ take case to treaty body ▪ invite SR's to country ▪ strengthen networking with national, regional and international organisations ▪ enforcement of laws

NOTE: Examples of the direct impact of globalisation on housing include the privatisation of resources, the increased speculation of land and setting up of military bases. This application of the matrix takes one example of the impact of globalisation from the Philippines.

ANNEX E

TESTIMONIES (IN FULL)

HLRN RIGHT TO HEALTH MONITORING TOOL KIT

HLRN RIGHT TO EDUCATION MONITORING TOOL KIT

TESTIMONIES

Right to Adequate Housing in the Context of Domestic Violence

By Ivy Josiah, Women's Aid Organisation (WAO), Malaysia

Malaysia is a multi-racial country, with a population of 22 million of which approximately 48% are women. In Malaysia there are about 10-15 groups working on violence issues, which are visible and form a strong anti-violence movement.

WAO was established in 1982. Initially it provided shelter, child care and a phone tree. It has since also developed an advocacy role on VAW issues. In 1992, WAO did a national survey. 39% of the women above 16 years of age responded they had experienced some form of domestic violence. Police statistics from 2002 showed that there had been 2755 reported cases of domestic violence and 1431 cases of rape, of which 305 were cases of incest.

Guarantees

The guarantees for addressing domestic violence are contained in:

Law:

- CEDAW and CRC – both of which have been ratified by Malaysia
- Constitution – prohibits gender as a form of discrimination
- *Domestic Violence Act, 1994*
- Penal Code

Institutions:

- Human Rights Commission
- Ministry for women and family development

Programs and Policies:

- Ongoing anti-violence campaigns
- Welfare departments in each state have specified officers who work on domestic violence cases. However, there is very little awareness and information in the community about the existence of these officers, and thus women cannot easily access them
- The police are responsible for reporting cases of domestic violence and have increasingly been doing this since the enactment of the *Domestic Violence Act*)

Although there is no policy, law or treaty on housing, the right to adequate housing can be sourced from the UDHR:

Art 25: "Everyone has the right to a standard of living adequate for health, housing, medical care and necessary social services".

Art 3: "Everyone has the right to life, liberty and security of person".

Entitlements

Women are entitled to adequate housing and all of the rights related to this right, including the right to be free from violence:

- Security of tenure – protection from forced eviction
- Public goods and services – health care
- Habitability – space to live in dignity and peace
- Location – access
- Freedom from dispossession
- Information
- Protection
- Legal redress

In order to reduce vulnerability, to provide protection and to create the enabling conditions for fulfilling women’s right to adequate housing, the claims content under the *Domestic Violence Act* needs to be expanded to include:

- Provision of shelters
- Access to shelters
- Access to one’s own home
- Freedom from the threat of dispossession/eviction
- Access to owning/renting low cost homes
- Adequate live-in space/bedroom for domestic workers

Women’s groups have argued that the *Domestic Violence Act* should also include as a remedy the option for the perpetrator to be removed from the home. Why should a woman, often times with her children, be displaced from her own home, because she is being subjected to domestic violence? It took nine years of lobbying before the *Domestic Violence Act* was passed in Malaysia. However, it was passed without an ouster clause on the basis that a man also has his rights to the home. So the current wording is:

“(4) The court shall not make an order excluding the person against whom the order is made from the whole of a shared residence that is solely or jointly owned or leased by him unless it is satisfied that there is no other way to secure the personal safety of any protected person for the time being and such order be:
(a) revoked if a suitable alternative residence (premises or accommodation which victim is or has been compelled to seek, or move into as a result of domestic violence) is found for the protected person.” [Part II, Protection Order, Domestic Violence Act 1994]

Alternative residence in this clause refers to shelters. Although this clause exists, its enforcement is dependent upon whether the police will enforce it or whether police tell the woman to instead get a court order.

In the US recent research is questioning whether the eviction of the perpetrator makes women more vulnerable or not. The *Domestic Violence Act* in Malaysia provides for women to be granted protection orders. Some women have returned to their home with the protection order and have been able to live in safety, while in other cases the perpetrator has paid no heed to the piece of paper.

Case Study 1: There are three shelters in three of the 14 states in Malaysia. In Kuala Lumpur, the shelter is well known and easily accessible. But WAO also gets phone calls from remote parts of Malaysia. One woman called from East Malaysia wanting to leave her husband. WAO advised her to go to the welfare department. However, the welfare department was not able to provide her with shelter. The welfare homes in Malaysia are gazetted and you need to get a court order in order to go into one of these homes. Further, these homes are not specialised for survivors of domestic abuse – they are more commonly used to house abandoned children and people with disabilities. This case study shows there is an urgent need for shelters in all rural and urban areas of Malaysia and that the provision of shelters should be seen as a state obligation.

Case Study 2: A woman came to WAO seeking shelter, which is allowed under the *Domestic Violence Act*. The Act also allows you to return to your home to obtain your personal belongings, which this woman did, accompanied by the police. She took her jewellery and passport. In the process her husband persuaded her to stay and promised to change his behaviour. Three days later a fight ensued and she was thrown out of the house by the husband and returned to WAO. She then called the police who initially assisted her to take her belongings from the house and asked them to take her back to the house, but instead the police took her to the shelter.

Case Study 3: The number of single mothers in Malaysia is growing and it is now estimated that there are 700,000 single mothers. This is not generally the result of women choosing to be single mothers or because of widowhood, but due to violence in the home, particularly psychological violence resulting from polygamy which is becoming more prevalent in Malaysia - as men get richer they feel they can afford more wives.

Many women who have left their husbands due to violence, do not want to divorce their husbands because they do not want to face the man, or they cannot find him, or they don't have the legal means to divorce him, or they are reluctant to because of cultural notions of shame that are attached to a divorced woman.

In this instance, a woman left her husband and came to WAO, leaving her children at WAO while she went to work. Initially she worked as a security guard where she was given a room for sleeping. But robbers came to the site after which she did not feel secure. She went to another job, where she had to share the sleeping quarters with men who harassed her. She then moved to live in a squatter area, where she paid USD39/month - 15% of her salary for a room and a shared bathroom. In 2001 she applied for low-cost housing. Although she was only earning US\$276 and so was eligible for the housing she was told by the council that she could not access the housing because she was not divorced. The Local Council rules required that a woman must be married or divorced - she cannot be separated - to access the housing. She went 16 times to the authorities before she persuaded them to allocate her a low-cost house. Now she is facing problems due to the lack of child care available and has to call 6-7 times a day to check on her children.

Case Study 4: An Indonesian woman, who was employed as a domestic worker, was given a cage outside the house to sleep in. There were no toilet facilities. She was only allowed out of the cage to work in the house for 3-4 hours a day. The police have since rescued her.

It is important to see how the working and living conditions provided for domestic workers constitute a violation of the RAH and are part of the context of violence faced by domestic workers.

Recommendations for the State:

- Provision and access to shelters;
- Domestic violence legislations be improved to: provide for the removal of perpetrators from the family home; strengthen protection order provisions; provide for court-ordered relief for housing;
- Develop a policy on access to affordable housing and child care for single mothers;
- Revise labour laws to protect domestic workers: improved working conditions; create a standard contract for all migrant workers (currently there is a standard contract for Filipinas but not for Indonesians, which could be argued to be a form of discrimination under ICERD);
- Revise the Memorandum of Understanding between sending and receiving countries (note: Tenaganita, a Malaysian migrant workers rights organisation, has done a report on women migrant workers).

Violence against Women and Right to Adequate Housing: the Case of Georgia

By Ketevan Dadunashvili, Nana Khoshtaria, Marina Miqueladze, Rusudan Pkhakadze, Marie Meskhi, Eka Iobadze, Tamar Sabedashvili
Presented by Ketevan Dadunashvili

I would like to greet you all and to thank the organisers, everyone, who made my participation in these consultations possible. I come from Georgia, a country located in the Southern Caucasus on the eastern coast of the Black Sea. I represent a non-governmental organisation, Women's Advising Center "Sakhli". Our organisation has been working on the elimination of domestic violence since 1997. The main directions of our work are psychosocial rehabilitation, legal consultations with the victims, improvement of the legislative basis, public awareness raising, and scholarly research on domestic violence.

The opportunity to come to this consultation has been a catalyst for us to acknowledge the important linkages between violence against women and women's right to adequate housing. Our daily work demonstrates that the lack of adequate housing is one of the main factors discouraging women to divorce, to escape from their perpetrators and to find sources for rehabilitation. The focus of the consultations has helped us to concentrate on this important linkage and to rethink our experience from this angle, therefore thank you very much.

In order to brief you on the developments that Georgian women have faced since the break-up of the Soviet Union, especially with respect to interlinkages between violence against women and right to adequate housing, this presentation will focus on:

1. The major changes that have occurred in Georgia from 1991 until present and their influence on women;
2. Implementation of state policies with respect to women;
3. Georgia's legal framework, including, those customary laws that affect the interlinkages between violence against women and women's right to adequate housing;
4. Cases from our work experience, demonstrating the interlinkages between violence against women and women's right to adequate housing;
5. Finally, based on the findings of the presentation we provide you with our organisation's recommendations on what has to be done to improve the existing situation.

1. Women of Georgia after the Break up of the Soviet Union

From 1989 till 2002 the population of Georgia has decreased by one million – falling from 5.4 to 4.4 million.¹ 53% of the population are women.² Since 1991 Georgia has been experiencing a transition from a totalitarian regime to democracy. The collapse of production, high rates of inflation, unemployment, corruption, and other economic and political crises have accompanied this process. The two ethnic conflicts (in Abkhazia and

¹ Experts believe that this decrease in population is caused by high rates of external migration. Also the 2002 census was not carried out in the two breakaway regions of Georgia (Abkhazia and South Osetia).

² State Department for Statistics of Georgia, *Women and Men in Georgia* (Tbilisi: 2002), 7.

South Osetia) and one civil war, which took place in the early 1990's, have ruined the country's territorial integrity and a new stratum of the society has appeared in the form of Internally Displaced Persons (IDPs). The total number of IDPs is 264 217. Women constitute 55% of the total.³

The drastic socio-political and economic changes altered the style of Georgian citizens' lives and their personal and public relations. In this process certain social groups have been marginalised. The most vulnerable are the elderly, disabled, IDPs and single mothers.

65% of Georgia's population lives below the poverty line and a high proportion of these are women.⁴ Poverty is one very important aspect that prevents individuals from exercising their right to adequate housing. In Tbilisi, the capital, which is the most populous place in the country, the official subsistence minimum as of 2002 was \$60.50 (133.1 GEL) per adult, per month. For a three-member family, the subsistence minimum is \$98.50 (215.8 Gel) per month. While the minimal salary of an individual employed in the public sector was only \$9.00 (20 GEL), comprising only 37.7% of the minimal normative salary.

During the Soviet times the State provided individuals with housing, 8 sq. meters per person. Now, each individual is responsible for his or her own housing and only a few can afford to buy a place.

The principle of equal pay for equal work is not universally followed and women are discriminated against. According to the State Department of Statistics in 2002 the average salary of women working in the state production institutions was 41% less than that of their male colleagues. In the governmental institutions on average women earned less than men by 46.2% in agriculture; 32.2% in trade and merchandise; 40.8% in education; 29.9% in healthcare; 41.9% in non-governmental institutions; and 45.2% in all other spheres. Women as a group on average earned 43.8% less than male workers.⁵

Women's labor rights are often violated. A woman returning from maternity leave is not considered a desirable employee. Women are hired last and fired first – this practice is perpetuated by the stereotype that men are the breadwinners in the families. However, the experience of the last decade has shown that more and more women play the role of sole breadwinner. This tendency was revealed also by our Center's research. In such cases, when women try to challenge traditional gender bias that puts men in charge of decision-making, changes can occur and may result either in cases of domestic abuse or in gradual negotiations and enlargement of women's authority in the family.

70% of working women are self-employed. Internally displaced women work largely as salespersons in large market places and streets. The majority of IDP women have high levels of education and pursued different careers prior to displacement. However, now they are compelled to work in occupations which do not match their professional and educational backgrounds. Therefore, although they gain new skills, their potential is undermined and misused. Many women travel to developed countries to look for job-

³ Association Migrant, Ministry of Refugees and Accommodation of Georgia, IDP's Reference Book, (Tbilisi: Pirveli Stamba), 395.

⁴ "Woman in Georgia" – Georgian Center of Research and Development, 2000.

⁵ N. Shioshvili, Georgian Women Employment Supporting Association: "Amagdari".

opportunities in the service sector. However, in many instances, due to their illegal status in foreign countries, their labor rights are violated and they become targets of human traffickers. The work of migrant women generates income crucial for the survival of families left behind in Georgia.⁶

Along with employment, the problem of access to adequate housing is extremely acute for IDPs. 85% of IDPs live in 3600 places of high density settlement and the majority of these places fail to meet the standards of decent housing. The average number of people per room is four, “cooking places and toilets are often shared, and sanitary conditions are dismal”.⁷ Hence, levels of infectious diseases such as tuberculosis and hepatitis are very high among IDPs. The trauma and severe life conditions also serve to damage the health of internally-displaced women. Women suffer the most from this situation as they are busy in domestic occupations and have to cope with the problems caused by inadequate housing conditions. The law for IDPs allows for the provision of IDPs with temporary housing; however, the conditions that these people are offered fall below minimal housing standards.

In such severe economic, social, and political conditions the instances of violence against women have become more frequent, and their forms of manifestation more diverse. The research undertaken by our center has showed that 57.3% of our 400 randomly selected respondents name the harsh socio-economic conditions, unemployment, and perpetuation of traditional gender roles (i.e. man breadwinner, woman caregiver), to be the accelerating factors for domestic abuse. The number of domestic violence cases has increased, but unfortunately, a large majority goes unreported. The reason for this is women’s lack of awareness of their rights and dominant public opinion that regards domestic abuse as a private matter that should remain strictly within the domain of the family. Another reason for women’s silence is their distrust of law-enforcement representatives. Women fear that the police will blame them for what happened. The question of domestic violence is considered taboo by society.

The level of women’s political activism has significantly decreased since Soviet times. Few women hold decision-making positions in political parties. Only 6.4% of the Members of the Parliament are women. Women occupy only 2-3% of decision-making positions in the executive branch of the government.

Parallel to these changes, in the last decade with the growth of civil society and women’s NGOs it has become possible for wider groups of society to be involved in the work for the improvement of women’s conditions and for the protection of women’s human rights. In 1994 Georgia signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) without reservations. Georgia is also a state party to all other major international human rights protecting documents including:

⁶ Ch. Jashi, Materials for Seminar on Gender Equality, “Gender Analysis of Social and Economic Conditions”, (Tbilisi, 2001), 129.

⁷ Tomas Buck, Alice Morton, Susan Allen Nan, Feride Zurikashvili, *Aftermath: Effects of Conflict on Internally Displaced Women in Georgia* (Washington: Center for Development Information and Evaluation, U.S. Agency for International Development, September 2000), Working paper no.310, 5.

- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) – signed 1999;
- The International Covenant on Civil and Political Rights (ICCPR) – signed 1994;
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – signed 1994.

2. *State Policies with Respect to Women and their Implementation Status*

In response to the 1995 Beijing Declaration and Platform of Action, in 1999 the President of Georgia ordered the creation of an inter-institutional State Commission on the Elaboration of the State Policy for the Advancement of Women. The Commission has been established and the President has approved several plans of action for the advancement of women and for combating violence against women.⁸

These plans of action identify different concrete measures for improving women's conditions and identify certain governmental as well as non-governmental institutions and media representatives responsible for fulfilling them. For instance, the priorities identified by the Plan of Action for Improving Women's Conditions in Georgia for 2001-2004 are as follows:

1. Establish institutional mechanisms;
2. Increase the role and participation of women in decision-making processes;
3. Create economic policies for women;
4. Take measures to eradicate female poverty;
5. Address women and armed conflicts;
6. Improve women's health conditions;
7. Advance women's rights.

The Commission on the Elaboration of the State Policy for Advancement of Women is responsible for monitoring the implementation of the plans of action. However, the majority of the members of this Commission are high rank officials, such as the Minister of Environment, Deputy State Minister of Georgia, the Head of the Apparatus of the Parliament, etc. These people are very busy in their mainstream positions and cannot fulfill the responsibilities undertaken in the inter-institutional Commission.

In 2003, the Ministry of Justice prepared a proposal for strengthening anti-trafficking legislation. The Parliament adopted the proposal in the same year and respectively made changes in the Criminal Code, punishing trading with humans (Paragraph 1, Article 143) and punishing trading with minors (Paragraph 2, Article 143). The Ministry of Justice has also prepared a draft of a more complex anti-trafficking law – but discussion on that draft has not started yet. "The range of issues covered by [the state documents on women] is truly wide and [is needed] urgent[ly] to address the needs of women. However, although [their ...] conceptual quality is quite high it is their implementation that remains a serious problem."⁹

⁸ The Plan of Action for Improving Women's Conditions in Georgia for 1998-2000, 2001-2004; The Plan of Action for Combating Violence against Women 2000-2004.

⁹ T. Sabedashvili. Women in the Decade of Transition: The Case of Georgia, (Tbilisi: Lega, 2002), 21.

None of the above-mentioned plans of action stresses women's right to adequate housing. Only the Plan of Action for Combating Violence against Women 2000-2004 outlines the necessity for providing victims of domestic abuse with shelter. At the moment there are no State- or NGO-run shelters in the country.

Even this brief overview of the situation demonstrates that the State is taking only formal, declaratory measures to improve women's conditions in the country; therefore, substantive changes are not taking place. The institutional framework with respect to women is very weak. The planned Women's Department has not been created yet, and this objective has been transferred from one Plan of Action to another. The most widespread explanation for the lack of institutional coordination and fulfilment of the plans of action is the economic hardship of the country and lack of budgetary funds to sponsor their fulfilment.¹⁰ However, representatives of women's NGOs think that not only lack of resources but also lack of commitment and political will from the side of the Georgian government is the reason for having token plans and no real results.

3. Georgia's Legal Framework and Customary Laws that Affect the Interlinkages between Violence against Women and Women's Right to Adequate Housing

Article 14 of the Georgian Constitution claims the universal freedom and equality of all human beings "before the law, regardless of race, skin colour, language, sex, religion, political and other beliefs, national, ethnic and social origin, property and title of nobility or place of residence".¹¹ The second chapter of the Georgian Constitution defines Georgian citizenship; basic rights and freedoms of the individual are guaranteed. Georgian Constitution, Article 6, states: "the legislation of Georgia shall correspond to universally recognised principles and rules of international law. An international treaty or agreement of Georgia unless it contradicts the Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts".¹² The Constitution recognises and guarantees the property and the right to inherit. The document in Article 21 declares, "the abrogation of the universal right to property, of the right to acquire, alienate and inherit property shall be impermissible".¹³ Further Article 22 states:

- "1. Everyone legally within the territory of Georgia shall, within throughout the territory of the country, have the right to liberty of movement and freedom to choose his/her residence.
2. Everyone legally within the territory of Georgia shall be free to leave Georgia. A citizen of Georgia may freely enter Georgia.
3. These rights may be restricted only in accordance with law, in the interests of securing national security or public safety, protection of health, prevention of crime or administration of justice that is necessary for maintaining a democratic society".¹⁴

According to Article 1157 of the Civil Code spouses can freely choose their place of settlement if the choice does not oppose the family's interests. In the language of this article,

¹⁰ R. Beridze. Materials for the Seminar on Gender Equality, "The Plan of Action for Improving Women's Conditions in Georgia", (Tbilisi, 2001). 59.

¹¹ The Constitution of Georgia, chapter two, Article 14.

¹² The Constitution of Georgia, Article 6.

¹³ *Ibid.* Article 21.

¹⁴ *Ibid.* Article 22.

the words “family’s interests” are somehow alarming as, usually men speak on the behalf of family and its interests, while women’s choices and desires may not be voiced.

Although, both men and women have equal rights before the law, with respect to acquiring, alienation, and inheriting property, women often live in the house of their spouse or in the spouse’s parents’ house. If a woman wants a divorce she cannot claim a share of the house if it was not purchased during the marriage.

Even if a married couple has purchased the flat, usually it is the husband who makes the payment and therefore, the property is registered in his name. This practice is supported by the fact that stereotypically men are regarded as property owners even if women have also participated in the procurement of the flat. This situation makes it harder for women seeking divorce to claim their rights to housing. Although the Civil Code prohibits selling of a common property without the agreement of each owner, in practice, there are no mechanisms for checking whether a house has been held in common or individual ownership unless it is registered in the names of all owners in the public register.

From the first glance it seems that the laws are gender neutral and there is no *de jure* gender-based discrimination. However, the *de facto* existing practices prevent women from exercising their right to adequate housing. Customs and traditions add to these *de facto* discriminatory patterns. According to the customary law, which is even more influential in Georgian society than codified legislation, parents consider daughters as secondary heirs. According to this tradition, sons, or a younger son, inherit the family home. Women when they marry receive a dowry (the scope of a dowry depends on the material state of a family, but it is never associated with accommodation). However, if a woman fails to get married she remains in the parental house, without any right of possession if she has a brother who is the primary heir. This custom complicates women’s situation in cases of divorce, as because of this tradition women do not inherit any housing space, have no place of their own to turn to and become even more dependent either on their husbands, fathers, or brothers. This customary practice is reinforced by other social norms and cultural values. Therefore, if a woman dares to appeal to a court to claim her share of parents’ property, her behaviour would be strongly disapproved by the society.

4. Cases from Our Work Experience Demonstrating the Interlinkage between Violence against Women and Women’s Right to Adequate Housing

Case #1

37-year-old Ms. N was married for 12 years. She has two underage children and is materially dependent on her husband. For the whole duration of her marriage, she lived in the apartment owned by her mother-in-law. During their marriage her husband inherited a flat from his father; however, according to Article 1161 of the Civil Code, a property that was inherited or given as a gift to one of the spouses is not considered to be a common property. For the time being Ms. N wants to divorce as she has been subjugated to severe forms of psychological violence from the side of her mother-in-law and her husband. However, divorce is complicating her situation even more as she will be deprived of place to live, as she cannot ask for a share from the flats owned by her spouse and his mother. Ms N’s brother possesses her parental house, where he lives together with his family. This case is a vivid example of Georgian legislation’s and customary regulations’ low sensitivity towards women’s conditions.

Case #2

42 years old Ms. L was married for 13 years. She has two under-age children; the children need constant medical care because of chronic health problems; they also need special care at home, therefore, the woman is not working. Her husband wants divorce, while she does not as divorce will deprive her of living space. She has no place of her own other than her husband's apartment where they live now. In addition, she will be deprived of material support provided by her husband, which is crucial for her and the children's survival. She cannot count on alimony or welfare as her husband is hiding his real income. His official salary is \$32; therefore, alimony would be very low, while his actual income from other businesses that are not registered in his name is higher.

In this case the problem of parents and children with disabilities is connected to the unhealthy economic environment, where an individual is hiding his actual income to avoid taxes or support of his own children. The case also outlines the problem of alimony. According to the law, both parents have equal rights and responsibilities towards their children. However, usually after divorce children stay with their mothers. The issue of children's rights to parental property is rarely decided without court intervention. Women appeal to the courts to make their husbands responsible for paying alimonies. The amount of alimony is defined by the court, which takes the material conditions and income of both parents into consideration. If the father is unemployed he is freed from the alimony even if the mother is economically vulnerable.

Case #3

52-year-old Ms. G was married for 25 years. Her 24-year-old son is beating her. During the last family conflict her husband and her son forced her out of the house. The husband wants to divorce her. The husband did not acquire any housing property during their marriage. The flat where Ms. G used to live belongs to her husband, which he inherited from his parents. For the time being the woman temporarily stays with her relatives. Her future is uncertain.

These cases demonstrate that there exists strong interlinkages between violence against women and women's right to access adequate housing and that this right is often violated in Georgia, especially if a woman or her husband seeks divorce. According to the research undertaken by Sakhli 35% of the women clients are victims of domestic violence and experience hardship with respect to adequate housing. Divorce creates a real threat of loss of accommodation for them and the majority try to put up with their perpetrators and the violence in order not to become homeless.¹⁵

Although women and men are equal before the law, the legal system, including the laws, procedures, and law-enforcement representatives remain insensitive to women's concerns and difficulties. Georgian legislation does not define domestic abuse. There are no laws regulating instances of domestic violence. Instead, representatives of law-enforcement appeal to different provisions in the Criminal Code to punish domestic abuse – such as (Chapter XIX) Crime against Life; (Chapter XX) Crime against Health; (Chapter XXI)

¹⁵ Women's Advising Center "Sakhli", *Domestic Violence – the Study of Gender Attitudes*, (Tbilisi: TV+, 2002), 33.

Exposing Life or Health of Human Being to Danger; (Chapter XXII) Crime against Sexual Freedom and Inviolability. There are no provisions re punishing marital rape. The number of women, victims of domestic violence appealing to the law-enforcers is very low, as they are afraid that society will disapprove of their behavior for publicising private matters or will blame them for the aggression by the spouse. In many cases, if women appeal to the police, the latter try to make illegal deals with them asking for bribes and in exchange promising to beat up or otherwise threaten the perpetrator. Such deals work the other way around too. So if the perpetrator has a good relationship or bribes the police, then they ignore the case and do not follow up the complaint of abuse. The flourishing corruption in the law-enforcement structures creates a fertile soil for discrimination against women, as men are better connected and wealthier and, therefore, able to take most advantage of the system.

As we have seen, the *de facto* situation with respect to the interlinkages between violence against women and access to adequate housing is worse than the *de jure* situation, but even then the Georgian legislation requires further improvements. The *de facto* situation is complicated due to existing customary laws and harsh social and economic conditions. Our experience of work in the field of domestic abuse has shown that violation of the right of adequate housing (i.e., women are unable to become owners of houses) is creating suitable conditions for domestic abuse and victimisation of women.

Our work on this presentation has showed us that neither the State nor NGO sector has paid attention to the interlinkages between violence against women and right to adequate housing. There are no tangible measures to prevent violation of the right to adequate housing. The interlinkages between the violence against women and right to adequate housing have not been researched and no strategies exist to improve the existing situation.

5. Based on Our Observations and Work, We Have Worked out a Number of Recommendations

1. State and non-state actors should fund projects to study the interlinkages between violence against women and right to adequate housing in the Georgian context;
2. Based on the findings of the research, the existing legal framework and advocacy strategies must be reworked and made more sensitive to women's needs;
3. The awareness of state and non-state actors on the interlinkages between violence against women and right to adequate housing should be raised and the cooperation of governmental and non-governmental organisations on raising public awareness, prevention and elimination of violence against women as well as protection of the right to access adequate housing should be encouraged;
4. In order to raise public awareness of the interlinkages between violence against women and right to adequate housing, there should be:
 - Educational work among different groups of society (women, representatives of law enforcement, state officials, NGO representatives, media representatives, etc.);
 - Strengthening of women's crises and information centers.
5. The State should comply with obligations made under international human rights documents, in particular CEDAW, Article 2, paragraph (f): "[States should] take all appropriate measures, including legislation, to modify or abolish existing laws,

regulations, customs and practices which constitute discrimination against women”;¹⁶

6. There should be an increase in civil participation in the monitoring of the State with respect to improving women’s conditions. NGOs should lobby for new policies and recommendations aimed at the elimination of the violence against women and protection of the right to adequate housing.

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¹⁶ The Convention on the Elimination of All Forms of Discrimination against Women, part I, article 2, paragraph (f).

Housing and Domestic Violence in the Sri Lankan Plantation Sector

By Krishnan Yogeswary

Sri Lanka is a multi-ethnic and multi-religious country with a large number of agricultural workers. The tea plantation sector began with more than 300,000 workers belonging to a single ethnic minority called the Indian Origin Tamil community. The Indian origin Tamil people were brought by the British from Southern India during the colonial period to toil in the plantation sector. The people of Indian origin were kept as captive labour in the plantation sector. The present generation consists of over 15 million people, who live in plantation estates and practice the culture which was brought over by their ancestors. The male-dominated culture prevails in the community without any major changes.

Living Conditions

The British planters provided single-line room houses for the worker families. The single line room is 10'x12' and is used for dining, living and sleeping. Initially it was provided to married couples. But as the families grew the line rooms were not expanded. The extended families have had to live in the same line rooms. The line rooms used are those that have existed in the plantation sector since they were built more than 100 years ago. Currently, more than three families live in a single line room. More than 12 members live in a single room. In 1987 a scheme for single cottage housing (which consists of two rooms) was started by the government with the assistance of the donor community. However, 90% of the worker families still live in line rooms.

Domestic violence

Domestic violence is common among all communities and all classes. However, the reasons for violence differ according to the circumstances. Suspicion and alcoholism are the main reasons for domestic violence in the plantation sector. Moreover, a recent study shows that the living conditions also contribute to domestic violence. If the people had better housing the violence against women could be controlled or reduced.

A sample study was carried out in 15 estates, which included 1256 families. Interviews were conducted with 250 married women. Approx 99% of the women were beaten by their husbands very often. One of the main reasons for beating is suspicion. 65% of the women said the suspicion arose when they did not allow their husbands to have sex with them whenever they wished. When we questioned them about their reasons for not allowing their husband to have sexual relationships with them, the women said that in a single room they cannot have a sexual relationship until the others are asleep. The interviewed women said, "The drunken husband used to come home at about 9 o'clock. As soon as he finished his dinner he went to bed and called his wife to sleep with him. But at that time he didn't think about the other members in the room, who weren't asleep. So, because of this situation the wife didn't respond to the husband's call. Then the husband tried to beat or scold her, citing fault reasons." One woman said she was beaten by her husband at midnight. She fell unconscious and was admitted to the hospital.

When a son or daughter gets married the newly-wedded couple also live in the same room. In this situation, the inadequate housing makes young women more vulnerable to violence

in the family. The drunken husband and the brothers often harass the young women of the family. One young woman said she was molested by her husband's blood relatives. But due to the cultural taboos she was not in a position to divulge the incidents to the family members or to the public.

The inadequate housing also does not allow women to have much privacy. The young women interviewed said they faced lot of difficulties during their menstrual days. According to the cultural beliefs the menstrual days are bad days for the family. Therefore women have to do everything for their menstrual days secretly, including cleaning their normal clothes in secret. Some women said that due to the lack of privacy, they have to go the tea bushes to change their inner clothes during their menstrual days.

Adequate housing and violence

Interviews were also conducted with 15 married women who live in cottage-type houses, which consist of one bedroom, a living room, kitchen and a toilet. The violence against women living in the cottages is less compared to women living in the line-room houses. Among the 15 women only one was beaten by her husband because of suspicion. The main reasons for the reduced violence were seen to be the space and that the women were able to discuss their concerns freely with their husbands. The men were then able to understand the physical position of their wives. The women members of the family also had more privacy. Further, the women said due to the separate rooms, they were able to safeguard themselves from assault.

Conclusion

So, considering the empirical experience of the plantation women, inadequate housing is one of the main reasons for domestic violence. If women have access to more living space, with separate rooms, the violence will be less. Women can then even safeguard themselves from physical violence. Therefore the State should take necessary steps to provide adequate houses for every family. Access to adequate housing is a human right. Human rights are women's rights.

Interlinkages between the Right to Safe Household and the Right to Adequate Housing

By D. Enkhjargal

Geographical Features of Mongolia

Territory

Mongolia is a land-locked country which covers an area of 1,564,118 square kilometers in North East Asia. The total area of Mongolia is larger than the combined areas of Great Britain, France, Germany and Italy. It is one of the largest land-locked countries and the world's seventh largest country.

Climate

Mongolia's climate is extreme. Long subarctic winters from October to April are the norm and you can see snow in the Gobi Desert as late as April - some lakes remain frozen until June. There's a short rainy season from mid-July to September, but showers tend to be brief and gentle. Due to the high altitude, evenings are cool even in summer. In Ulaan Baatar, the winter is long and cold, with temperatures dropping to -32°C in January and February. Horrific dust storms kick up during the short spring (May to June). Summers are short, June to August, with temperatures ranging from +20 to +30° C.

Population

Mongolia has 2,407,500 permanent residents and 554,000 households according to the statistics released in 2000. Of the total population, 54.8% reside in urban areas and settlements while 45.2% live in the countryside. 32.6% out of the entire population and 30.1% of all households are residents of the capital city, Ulaan Baatar.

Housing

99.2% of the total population live in houses, flats and the traditional dwelling *gers*, the basic types of housing. 51% or 275,604 households live in a ger, a traditional dwelling. The remaining 0.8% either have nowhere to live or live in nonstandard housing.

1. Sources of Law

- International customary law
- Human rights and other treaty law
- Regional human rights instruments
- Emerging norms
- Guarantees

Mongolia has ratified a number of covenants and conventions including the International Covenant on Economic, Social and Cultural Rights, Convention Against Torture and Other Inhuman and Degrading Treatment or Punishment and CEDAW.

Several measures regarding housing for the citizens have been taken at a national level:

- The provisions included in the Constitution include the following:
 - Art 16: "Every person has a right to live in a healthy and safe condition"- This regulates the basic requirement for housing that creates living conditions for people.

- “A person has the right to ownership, inheritance of property”
- “No person shall be subjected to dispossession of immovable property and the subjected ones are entitled to compensation”
- “Security of tenure is regulated by other laws”
- “A person has the right to free movement and the right to choice of settlement location”
- Art 10: “International treaties and conventions shall be used as much as national laws”
- Other Laws and Regulations
 - Civil Code, Penal Code, Criminal Law, Family Code
 - Independent Law on Housing came into force in 1999. The law regulates relations related to funding, planning, construction, usage, and maintenance of housing.
- Policies and Projects
 - National Programmes on Housing have been released for the past five years and the state policy on housing has been approved.

2. Funding

Present funding resources for improving the access to housing and housing conditions for citizens include the following:

- Programs and projects on housing construction being implemented under government agreements.
- Projects on construction of housing implemented by international organisations and NGOs.
- Mortgages offered by local commercial banks.

3. Best Practices

- An amendment to the Civil Code prohibits any actions such as rent or sales without the permission of an adult family member.
- The governance of the Capital City began to charge registration for residences. However, many people, who lost their animals in the harsh winter, had moved to urban areas in search of a job, and better living conditions. Consequently, it was too expensive for those people to pay the registration fee, which resulted in no status of residence and no access to public services and employment. The Human Rights Commission made a claim against the registration charges arguing it violated the Constitution. The Supreme Court upheld that the charge was unconstitutional and the charges ceased.
- According to tradition a groom prepares a ger, but when there is a dispute of ownership of property, mainly men are entitled to sole ownership of housing. The National Center Against Violence lobbied to change this arguing that a house is prepared for the well-being of all family members. Consequently, a new provision regulating equal ownership to all family members was introduced to the New Family Code.

4. The Right to Freedom from Domestic Violence

The following entitlements of the right to adequate housing apply in situations of domestic violence:

- Security (physical) and privacy
- Safe environment
- Participation and self-expression

The statistical results of some surveys done show that domestic violence is one of the most serious problems facing Mongolia:

- 1 out of every 3 women experience some form of violence in her household
- 1 out of every 10 women is beaten by her spouse.
- 1 out of every 5 families has a violent relationship

The above figures make us believe that the house or household where people should be protected from any kind of attack and be able to rest and live comfortably has turned into a place of fear and threat for many women. Domestic violence not only violates individual's safety but also the privacy of the victims. In this sense, the right to security/life and the right to adequate housing are two sides of the same coin.

The following figures came from an analysis on the registration of 2452 victims who received counseling from the National Center Against Violence in the capital city from 2000 to 2002. They are as follows;

- 1 out of every 3 clients has left home due to the violence. Out of them:
 - 48.2% stayed in their parents' place
 - 34.7% - in their friends' places
 - 22.3% - in the street
 - 29.5% - in their acquaintances' family
 - 25.9% - in other places/entrance of a block, in an organisation
- 1 of every 2 clients who escaped from home had done it several times, but they usually only left home for 1-7 days due to the lack of places in which they can stay.
- 65.4% of all the clients who left home were with their children.
- 1 of every 4 clients or 648 had attempted to commit suicide.
- 1 in 3 women confessed their permanent feeling of fear.
- 1 in 2 women had suffered a physical injury.

The main request made by clients was for safety and ways to overcome domestic violence. As the legal system does not protect or ensure their safety, survivors of domestic violence are forced to spend the night in their relations' homes, or in the streets, entrances of blocks or in organisations begging the doormen.

The Centre's shelter house provides the victims trying to survive domestic violence with temporary housing. This shelter run on "the shoulder of the NGO" is the only one in Mongolia. The shelter has a capacity of 20 clients and is always overloaded. As a survey into the past two years shows, the shelter had to reject 120 women due to the limited capacity of the shelter. The registrations from previous years show that 320 women could not stay in the shelter due to the limited capacity. As a result there were tragedies where women could not stay in the shelter because it was overloaded and they were killed by their spouses.

Despite the efforts to create a shelter house network, this has not yet been realised. This is related to the fact that the government does not recognise this service as an important issue on one hand, and on the other hand, funding bodies have no strong interest in funding such kinds of service directed at human basic needs – preferring to give more emphasis to training, advocacy and enlightenment activities. However, the government of Mongolia has

granted a certain amount of funds to the shelter house. Nevertheless, one shelter house is not sufficient.

5. Threats and obstacles

- Although Mongolia has ratified almost all the international covenants and conventions, many national laws are inconsistent with the international instruments because there is no review of national legislation and regulations.
- Existing policies and programs fail to reflect the interests of vulnerable groups.
- State budgets do not allocate funding for the implementation of national programmes and policies.
- The law on housing is more symbolic than anything else.
- There is no domestic violence law.
- Improper and inadequate implementation of laws in force.
- Natural disasters.
- Discrimination in land privatisation
- Victims of domestic violence are not included in the list of vulnerable groups and are left out from the social welfare system.
- No network of shelters

6. Interlinkages between the right to live safely and the right to adequate housing

The interlinkages between these two kinds of rights can be explained from the perspective of the holistic approach or the theory of hierarchical needs. As A. Maslow, a representative of the theory stated "All human needs are instinctive and they are in hierarchical order." He used a pyramid to show this (see Diagram 1 below).

The basic notion of this pyramid is based on the idea that once the basic needs at the bottom of the pyramid are met, people become consciously aware of social needs. For instance, Maslow declared that physiological needs must be met in order to meet safety needs. Physiological and safety needs having been met, will lead to derivation of other social needs.

When the basic needs of the victims of domestic violence are not met, efforts to improve their self-esteem and empower the victims do not bring satisfactory results – this finding is based on the work experience and reality in Mongolia.

As the survey into poverty levels conducted in 2001 shows, approximately 50% of all the households lead a poor life with a monthly income of less than 30,000 tugrogs (\$25). 61,300, or one-fifth of all the households, are headed by single mothers. Households with single mothers make up most of the poor families. Unfortunately, the above resources are too limited to reach the majority of population.

The loan programme for housing from the Asian Development Bank, offered to citizens with a low- and medium-income, charges 16% interest per year. Yet, this interest rate is unaffordable to households with a low income.

Although some opportunities to improve housing conditions exist (i.e., long-term, interest free loans etc.), their scope is extremely limited in comparison with the present needs. The

loan programs on housing implemented by local commercial banks are designed for the wealthy (i.e., short term/high interest), which is only 9% of the total population.

In addition to the fact that the legal system does not ensure the safety of victims of domestic violence, those victims are also excluded from the social welfare system. There are categories like “in poverty ” or “single parenting” in the list of persons entitled to the social welfare, but there is no category covering victims of domestic violence. The victims’ financial dependence and lack of adequate housing contribute to prevent them from getting out from the cycle of violence. Since there is no system or mechanism to support the victims to overcome domestic violence, they remain imperiled.

7. Conclusions

- The right to adequate housing remains a “dream” among the vulnerable groups of population.
- When the right to adequate housing is not ensured, empowerment of victims of domestic violence is still utopian, impossible to achieve. If basic needs are not met then social needs are not met.
- A complex regulation that will enable the victims to overcome violence from the State is needed. Therefore, the Centre shall promote more advocacy towards the State to create a complex service for the victims of domestic violence.

8. Strategies

Engage in more advocacy towards creation of complex legal regulation.

- Governmental and Nongovernmental organisations in the field of domestic violence and adequate housing should collaborate and network.
- To collaborate with the Special Rapporteur on adequate housing and National Human Rights Commission.
- Balance focus on temporary remedy and protection of victims’ safety and adequate permanent housing.
- More implementation of integrated strategies in Centre’s activities.

Diagram 1: Pyramid of Needs, A. Maslow



Dalit Women's Rights in Communal Violence

By Pramila N. Parmar and Ramila J. Parmar of Navsarjan Trust¹⁷, India

The effects of the 2002 Gujarat riots on Dalit women (Ramila)

In the Gujarat riots, especially in the areas of Gulmurg and Arura many women were raped and burnt alive and children were beaten. During the riots we worked in the Muslim areas, meeting people, discussing problems with women and conducting surveys and interviews. In trying to help women we were faced with the following problems:

- In one incident, most of the men had gone to read in the mosque and the women were alone at home doing their household work. 5-6000 Hindu people came, armed with trishuls, screaming "kill the Pakistanis and Muslims". The women started screaming. The police from whom they sought help did not come forward. The police said, "since you are Pakistanis and Muslims can't you help yourselves?"
- We had to work under curfew
- The women were so traumatised they cried during their interviews or were not able to complete the interview
- As volunteers we were harassed
- The riots prevented civil society groups from continuing their awareness programs.

The cause of the riots was political rather than ethnic. Most of the time, Hindus and Muslims live side-by-side in Gujarat. In these instances however, the higher caste communities, who do not live in these areas, targeted both Dalit and Muslim communities. Local people were provoked in the name of religion. Unemployed and uneducated people were given weapons by those with political interests, and incited to kill people of other religions. Importantly, women and children were the first victims.

The role of the police force in the riots was highly problematic. Even during curfew the police did not help to stem the riots. The police are supposed to protect the people but they did not perform their duties. So whenever there are riots people have been forced to fend for themselves.

In the riots Dalits have suffered more than the other people and the situation of Dalit women has worsened since the riots. Many Dalit women are now compelled to sell alcohol to earn a livelihood. The cases of suicide among Dalit women are increasing. After the riots, houses were built for affected Muslim people but no such efforts were made for affected Dalit communities.

Domestic violence in Dalit communities (Pramila)

The violence that is made invisible by privacy is not considered to be violence.

In India discrimination between girls and boys occurs right from birth. Girl foetuses are aborted. When a male child is born people distribute sweets, but when a girl child is born, there is no such celebration. There is discrimination in terms of food, education and all

¹⁷ Navsarjan Trust works for the upliftment of Dalits.

other aspects of life. A mother with several girl children is not considered to be a 'good mother/wife'.

Due to the lower status attributed to women in India, many women are tortured. For example, families pay large amounts of dowry for their daughters to be married, and if the in-laws feel insufficient amounts are given, the wife is abused. Other examples include:

- Scavengers' daughters are married very early and are not able to get a full education;
- In-laws disregard their son's widows and evict them from the home;
- Dalit women are mentally and physically harassed when they go out to work and are given lower wages.

Housing Issues of Dalit Women (Ramila)

Dalits face significant discrimination in accessing housing. The municipality has provided a few small houses for Dalit families, but conditions are not adequate – there is no water, electricity, lighting etc. The houses are located in a segregated, remote area. Simply by looking, you can tell it is a Dalit area.

Even though Dalit women work alongside Dalit men, they are not respected because they do not have safe and clean houses with proper facilities. Dalit women are expected to do all the devalued jobs.

The government has initiated a scheme for housing people of different castes and communities together. Despite the houses being located together, Dalits still face caste-based discrimination in terms of access to electricity, water or other facilities. For example, while the Marathi people have access to water, the Dalit families have to collect their water from separate sources further away.

Case Study: In the 1960's, Dalit women began working in the textile mills. The mill owner provided small huts, which they are still living in today. The huts are 8 x 8 feet and there are no facilities. 6-7 people live in each hut. While working in the mills the workers had to pay rent for the huts. Now the mills have been closed and the people are being asked to leave the huts. They have been staying there for 40 years and they have no alternative housing.

Women from Burma

By Shan Women Action Network, Member of the Women's League of Burma

Burma has been ruled by a series of Burman-dominated military regimes since 1962. The military regime exercises absolute power, and all abuses, including sexual violence, are licenced in the interests of controlling local populations. The whole population, especially those living in the ethnic states, has been suffering for decades from the impact of civil war between these regimes and the ethnic nationalities. This suffering has intensified in the past decade under the current regime, the State Peace and Development Council (SPDC), which has authorized increased militarisation¹⁸ and anti-insurgency campaigns¹⁹ in the ethnic states. One of the most extensive campaigns is forced relocation, which has been occurring since 1996. According to the Burma Border Consortium (BBC), about one million people living in the States and Divisions of Burma adjacent to the Thailand border have been displaced since 1996²⁰.

In this context, I would like to focus on Shan State, where I come from.

In Central Shan State alone, a population of over 300,000 Shans from over 1,400 villages in an area of 7,000 square miles were forced out of their homes ²¹ into military-controlled relocation sites. There are two main reasons for the military regime's forced relocation campaign in Shan State: to counter Shan resistance forces in central Shan State; and to depopulate the areas which lie in the flood zones of the planned Ta Sang Dam on the Salween River in Shan State.²²

Most villagers were given 3-5 days notice to leave their lands and homes, often at gunpoint. They were forced to leave behind their crops and animals and many of their personal belongings, which were taken by the SPDC troops. During the relocation many were beaten, burned alive and shot dead.

¹⁸ Over the past decade, the regime has increased the size of its army from 180,000 to over 400,000 troops. In Shan State alone, there are now at least 116 battalions, with over 100,000 troops.

¹⁹ The military regime in Burma actively implements the 'Four Cuts' policy, which aims to cut the supplies of food, funds, recruits and information to resistance groups by systematically terrorising, controlling, and impoverishing the civilian population in resistance areas so that they have neither the opportunity nor the means to provide any form of support to the opposition. The main pillars of the Four Cuts Policy are: detention, torture and execution of villagers and village elders perceived as having any contact whatsoever with the resistance; systematic extortion and pillage of the villager's crops, food supplies, livestock, cash and valuables; forced labor to get the civilians working for the Army and deprive them of time to do anything else; and increasingly, forced relocation to sites and villages directly under the control of the SPDC military troops. (Source:

<http://www.db.idproject.org/Sites/idpSurvey.nsf/wViewCountries/752A010E0C154C39C1256912004F9059>)

²⁰ For further details, see

[http://www.ibiblio.org/obl/docs/BBC_Relocation_Site%20Report_\(11-9-02\).doc](http://www.ibiblio.org/obl/docs/BBC_Relocation_Site%20Report_(11-9-02).doc)

²¹ The Dispossessed: A 1998 report of the Shan Human Rights Foundation

²² MDX-Thai Sawad (Thai company) and EGAT (Thai electricity department) are the main investors in the dam.

The relocation sites are located near the military barracks. In relocation sites, the SPDC soldiers do not provide food or housing and do not allow the residents to travel far from the sites to farm their own land.²³ In the relocation sites many villagers are engaged in forced labour – clearing land, portering, guarding sites, working in the camps (i.e., building barracks and fences) and on road-building projects. The villagers are forced to construct new shelters for themselves and work as day labourers or beg to earn money. It is very difficult for them to do any farming at the relocation sites. Villagers caught outside the relocation sites have been shot on sight.

Women have been easy targets. Many women are raped by the SPDC soldiers in the relocation site, or while they are doing forced labour for the military, such as portering or other work. Between 1996 and 2001, there have been 173 reported incidents of rape and other forms of sexual violence, of 625 women and girls by the Burmese army troops in Shan State.²⁴ These are documented in the report by SWAN and SHRF, *Licence to Rape*.

Despite the regime's attempts to block flows of information, reports of sexual violence have continued to reach SWAN from inside Shan State. SWAN has documented the rape of a further 138 women and girls in Shan State since the publication of *Licence to Rape*. The reported incidents demonstrate that the Burmese military regime is systematically raping Shan women on a mass scale to terrorise and subjugate the ethnic peoples of Shan State. The sexual violence is committed with impunity - none of the perpetrators have been punished. The majority of rape incidents were committed in areas where villagers have been forcibly relocated. Women were raped during the relocation process. In a number of cases the SPDC troops began inflicting violence on the villagers even before the days of notice to move had ended.

Many who tried to escape are living and hiding in the jungles. The SPDC has therefore begun systematically conducting extra-judicial killings of villagers and raping women caught outside the relocation sites, to deter others from returning to their home villages. Many women or girls have been raped when caught outside of the relocation sites, usually searching for food, or when stopped at military checkpoints. They are accused of supporting insurgents and tortured. Whole groups of villagers have been massacred.

Due to the brutality of the SPDC in relocation sites and the rape and sexual violence faced by women, as well as the threat of death and difficulties for those living in hiding, many, including a large number of rape survivors and witnesses, have fled to the Thai-Burma border. These survivors are still suffering from the mental and physical effects of sexual violence. However, Shan refugees, unlike ethnic Karen and Karenni refugees from Burma, are not recognized as refugees in Thailand. There are no refugee camps provided for Shan people, even though they are "outside their country owing to a well-founded fear of persecution"²⁵ in Burma. Consequently, survivors in Thailand have very limited access to basic healthcare, and almost no mental healthcare or counseling services. They are forced to

²³ International Labour Organisation Interview # 128 in International Labour Organisation (ILO), *Forced Labour in Myanmar (Burma), Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organisation to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No.29)*, Geneva, 2 July 1998.

²⁴ *Licence to Rape*, May 2002.

²⁵ Article 1. 2 of Refugee Convention

exist as undocumented persons, constantly in fear of being arrested and deported to Burma. Many work illegally for their survival, doing "3D" jobs: dirty, difficult and dangerous. Due to their illegal status, they are vulnerable to abuse and violence from Thai employers and corrupt officials. In addition they face difficulties of having no secure shelter or security and facing the constant threat of deportation back to Burma.

The increased militarisation in the ethnic areas by the regime is the root cause of ethnic people fleeing to Thailand. Without addressing this root cause, more and more people will become homeless, and women will continue to be victims of violence, including sexual violence.

To adequately address the problem of sexual violence and other abuses in Shan State, there must be an end to the Burmese Army's increased militarisation and anti-insurgency campaigns. There must be a political solution developed for Burma's ethnic peoples.

In conclusion, we would like to make the following recommendations:

To Mr. Miloon Kothari, the UN Special Rapporteur on adequate housing:

- To call on the UN bodies and international community to pressure the military regime in Burma to stop the forced relocation campaigns and extrajudicial killings in Shan State and other ethnic states and allow the displaced villagers to return home without further abuse and live peacefully.

To the regime in Burma:

- To stop forced relocation campaigns throughout the country;
- To immediately implement a nationwide ceasefire in order to stop increased militarisation and anti-insurgency campaigns in the ethnic states;
- To begin dialogue with representatives of non-Burman ethnic nationalities and the democratic opposition on the country's political future;
- To stop sexual violence against ethnic women and to end the culture of impunity.

To the Governments of countries neighbouring Burma, particularly India and China:

- To cease providing the regime with arms and military equipment;
- To engage the regime in pro-active efforts to dialogue with the pro-democracy movement and ethnic nationality groups;
- To actively support the efforts of the UN and other key stakeholders to achieve peace, human rights and democracy in Burma;

To the Royal Thai Government:

- To provide protection to Shan civilians along the Thai-Shan border by allowing them to cross the border into Thailand, and to provide adequate documents for Shan asylum seekers, and access to refugee camps and the UNHCR;
- To allow Shan asylum seekers access to humanitarian aid agencies based in Thailand;

- To not deport Shan asylum seekers, particularly women, into the hands of the Burmese military;
- To ratify the 1951 Refugee Convention;
- To ensure all refugee camps provide adequate health care and counseling for victims of sexual and gender based violence;
- To review Thailand's security directives and stop the crackdowns against pro-democracy and human rights groups working on Burma issues.

To our sisters in the Asia Pacific and throughout the globe:

- To organise campaigns in your countries and through your networks to support our demands for political change in Burma. We urgently need your support to protect our sisters inside Burma from the ongoing nightmare of sexual violence that they are suffering.

For further information, see www.shanwomen.org, or email kenneri@shanwomen.org

SWAN is a network of Shan women active in Thailand and along the Thai-Burma border. Its mission is to work for gender equality and justice for Shan women in the struggle of social and political change in Burma through community-based actions, research and advocacy. SWAN is a founding member of the Women's League of Burma (WLB), an umbrella women's organisation comprising eleven women's groups from Burma.

Bhutanese Refugee Camps in Nepal

By Hemanta Dahal

I have been working in a government school as a teacher since 1979. I was born and brought up in Thsokana village, Chirang district, Bhutan. I studied up to secondary level and later completed a 3 year diploma course in teaching. I was married to Mr. Parsuram Dahal in 1979 and we have 3 sons born to us. I had no problems in Bhutan until 1990.

After the demonstration of 21st September 1990, in Galephu, the school was closed for an indefinite period. My husband, who was the National Assembly Member of the area, was sent by the King to convey a message to the dissident groups in India. So we (my three children and myself) were alone at our home in Lodrai village under Sarbang District, Southern Bhutan. Unlike others in the locality, we did not experience any problems until 4th April 1991.

The 5th of April 1991 turned out to be the worst day in our lives. It was about 2pm. Two vehicles carrying police stopped in front of our house. I was alone in the house as the children had gone to play in the field. As the vehicle stopped, several police and the Deputy District Administrator (Dungpa) came towards our house. I was waiting for news of my husband who had been away for long.

Seeing their arrival I prepared cold drinks and invited them inside the house, as the Dungpa was my husband's friend and we knew each other. He, along with some police, entered the house and sat in the drawing room. Others spread all around the house with guns in their hands. I offered them squash to drink. I tried to enquire about my husband's news. In reply the Dungpa said that as per government reports my husband had joined the anti-nationals and they were here to send me out of the country. He asked me to get out of the house immediately. The police started listing my belongings. I was not allowed to touch anything.

You can just imagine if such a situation happened to you. It was like a volcano had erupted in me, the sky fell and the earth collapsed. I had no alternative. I sat on the floor and started crying, the only option I had. I could see the police pulling the camera and they took some snaps. Then he put it on the table next to me. I saw him going to the other room. There was a rag of cloth lying on the ground. I pulled it and covered the camera and put it under my arm. As they forced me to get out of the house I had no option than to move out. Finally I left the world that was mine. You all can imagine how a woman feels when she has to leave a house, especially a woman such as me from a South Asian society. A woman regards her home even more than her husband and children - without whom she can still carry on her life, but a home she cannot be parted from. I was deprived of this basic right even though Bhutan has signed the human rights conventions.

It was a nightmare for me. I remember they locked the main door and sealed the lock with wax. We were asked to leave but my husband's sister-in-law pleaded to allow us to stay overnight as it was already evening. Finally they warned her to send us out of the country early the next day. I hardly remember how I spent the night. As the sun rose the next day I had to say goodbye to every one and to the soil where I was born and brought up. It was very hard but I had to do it. We walked slowly towards India, which was 5km distance

away. On the way we came across police who had come to see that we left the place. We reached the Indian border of Assam where the people of Dadgari village, who knew about our situation, kept us in their house for five days. They had contacted my husband and he had sent people to collect us. We finally met after a week of our deportation from home.

Similarly the house of Mrs. Garima Adhikari, wife of Mr. Hari Adhikari, from the same block, was also seized and the family with two young children was deported on the same day.

In similar cases several women and children had to leave their home and hearth during the night in the monsoon. For those whose family members or relatives had played an active role during the demonstration, raids were carried out and in most cases women and children were tortured, in order to get information about the individual family member that had been involved.

The houses of several families in my village were demolished by the government, assisted by the locals. They were punished if they did not obey the order to demolish the houses of those whose families had managed to escape arrest.

In Bhutan, people from the South do not have the right to access schooling, health services, opportunities for employment, travel documents and business licenses. All these services are linked with the 'No Objection Certificate' (NOC) which is issued by the police. In cases where families have relatives in the Nepalese refugee camps, the family is denied the NOC and thereby deprived of such facilities. It is very rare for anyone not to have relatives in the camps as we had all lived in Bhutan for generations. The government restrictions on marriage with people from outside Bhutan meant there were stronger matrimonial linkages within the Southern Bhutanese community.

I have been living in the refugee camp in Nepal for the last 13 years. Even in the camp, the situation of women and children is not safe. The settlement is very congested and there is no privacy. A family of up to 8 members has to be accommodated within a space of 3.5 X 5.5 meters, which includes the area for cooking and guests. There is no provision for a bathroom nearby.

Elopement of young girls and early marriages happen and lead to early child bearing. Women are considered a product to be used by men. The head of the house is most commonly the man. In the past only men were selected as members of the Camp Management Committee, but recently women have started to get some opportunities.

However during the last few years refugee organisations like BRWF and BRAVVE have done a lot of work to improve women's skills and provide opportunities for income generation, with the support of UNHCR, HMG Nepal and relief NGOs. I request all participants at this consultation to help these refugee organisations who are functioning in the camps.

Given this situation I appeal to you all on behalf of my community to see our problem from the eyes of women. Bhutanese soil is ours, but the current Government of Bhutan does not respect the right of individuals. We wish to spend the rest of our life in peace in Bhutan and

be given the opportunity to prove our aspirations to our nation. We urge every human to help us to return to our own home. Kindly request the Government of Bhutan to respect the basic rights of its citizens, thereby building a peaceful society in which women and children, who comprise 75% of the people in any society, are protected.

Forced Eviction as State Violence Against Women in Indonesia²⁶

By Sri Wiyanti Eddoyono of Urban Poor Consortium, Indonesia

Mrs. Pine's heart was broken. Carrying her 7-month-old daughter, she cried only when the bulldozers destroyed her house. The house had been built only 4 years ago. "To build this house I saved Rp.5000 (US\$0.4 a day)..."

"You have no house? That is your problem." (The Head of Local Government in East Jakarta: September 2003)

"The Jakarta Local Government has continued to demolish illegal houses. It is not popular but it has to be done for public order and the rule of law. They are not Jakarta citizens...they stay on land they do not own." (Sutiyoso, Governor of Jakarta, September 2003).

"The land eviction is for roads: NO MONEY COMPENSATION" (The agreement between the Housing Department and the National Land Body (BPN), August 2003)

Under the Reformation regime in Indonesia, evictions are still on-going, especially in Jakarta. The evictions are being done by the government for the following reasons:

1. "The poor stay on land that they do not own".
Since 1998 the economic crisis has devastated Indonesia. Poverty has been increasing and is causing many people from other provinces to come to Jakarta to find jobs and earn money. The poor use "sleeping land" (i.e., land which the owner hasn't used for a long period) for farming and housing. The government demolishes houses built on these lands to protect the interests of private companies. The government says they are doing their duty as executors of the law.
2. The poor stay on prohibited lands (i.e., river banks, canals, under highways, electricity supply areas, etc.). The Jakarta local government demolishes their housing under Local Regulation no. 11/88. After demolishing the houses the government sells/rents the land to private investors.
3. The government implements projects to improve the economic base and infrastructure of cities such as Jakarta and Surabaya. Their aim is to have 'modern cities' - without slum areas, floods, or poverty. This project is funded with funds from the World Bank, JBAC, and the National Budget.

The Jakarta North Reclamation Project, based on Presidential Degree 52/1995, is expected to evict 2,859,000 people by 2010. The Jakarta Flood Canal is funded by JBAC.

The victims of such evictions lose their rights to negotiate with the government. There have been no discussions about relocation, compensation or alternative solutions.

²⁶ A documentary film entitled "Eviction in Jembatan Besi Tambora" was also shown. The film, produced by Urban Poor Media, documented a recent eviction in Jakarta, Indonesia.

The government's treatment of the victims

I. ILLEGAL SETTLEMENT:

Victims are given a letter from the government informing them that the place will be demolished. The victims have to report to the government and they will receive some money (US\$50, US\$100, US\$150 - depending on the condition of the house). The government calls this payment "KERAHIMAN". It is not compensation because compensation can only be given to the landowner. The victims have to move out themselves (VOLUNTARY MOVING) or the government will force them.

II. LAND OWNER:

Usually there is no negotiation with the landowner. The government only informs the landowner and pushes the owner to receive whatever compensation the government is willing to give.

Forced Eviction as a Form of State Violence

1. The government uses police officers and para-military troops to force the poor from their houses.
2. The government uses many kinds of weapons, bulldozers and violence.
3. The government has not abided by the law that guarantees the right to adequate housing—therefore the government has violated the basic principle of law in Indonesia.

The following laws guarantee women's right to adequate housing in Indonesia:

1. The Amendment of Constitutional (UUD 1945) article 28-28H
2. Act number 39/1999 the Human Right
3. Act number 7/84, the CEDAW ratification
4. Act number 22/2003, the Children Protection
5. CRC ratification
6. CERD ratification
7. CAT ratification
8. Environmental Law
9. Marriage Law
10. Some parts of the land reform policy
11. The President's Instruction in 2000 about Gender Mainstreaming
12. The signing of the Millennium Development Goals
13. The signing of the Cities Without Eviction
14. President Decree No. 55/1993: some conditions have to be met by the government before, during and after evictions.

4. The government protects business activities and interests rather than serving the poor and upholding their duties to protect housing rights. They use government policies to legitimise their actions. They make use of the inconsistent policies.

Some of the relevant policies are:

- ❖ The local Government Jakarta Decree 11/88 on Public Order

- ❖ Criminal Law (KUHP) - one article states that law enforcers can use force to maintain public order.
- ❖ President Decree No. 55/1993, used by government to avoid giving compensation to victims that do not own the land.

5. The government is deepening the imbalance in land-sharing between the poor and others.

The government has established a department for dealing with housing for low-income groups (PERUMNAS). Currently, the department only provides housing for the poorest 12% of the total number of houses. The conditions make housing inaccessible for the poor.

6. The evictions have a deep impact on the victims, especially on women, because of the gender roles they are required to play in a patriarchal society.

Women's conditions in poor communities:

In the family: As women in the family they bear a double burden - as a wife they have to take care of the house, children, husband and extended family; they also have to earn money for the family. Many of the women in slum areas are actually the breadwinners for their family. The lack of ownership of property among women makes them vulnerable to having low standards of housing and livelihood.

Domestic violence is common. Some women are not allowed to join community activities or women's organisations. (One of the women leaders was beaten by her husband in 2002.) Women are not allowed to make certain decisions without their husband, even though the husband may no longer live with them. Some of them do not have registered marriages, but they depend on the status of wife to protect them from the harassment of other men. Sexual violence is a common problem faced by girl children (e.g., incest and sexual harassment). Girl children are often victims of exploitation by their parents.

In the community: Poor women bear the stigma of being stereotyped as dirty, stupid, criminal, immoral. This stigma prevents them from being invited to activities held by other women in their community (sometimes they are involved, but only to collect money). For example, is very difficult for them to become a member of the school parents' board, which is an important body as it has the power to set the education fee for students.

In the State: Due to their illegal status they have difficulties in accessing programs for the poor (e.g., health programs, loans, housing programs). They also have difficulties getting birth certificates for their children (and this certificate is required for registering children in school). The rights to negotiate do not exist for them because they are people living in illegal residences. Their ILLEGAL STATUS makes any kinds of entitlement to rights difficult to access.

7. Women face many violations because of eviction

- ❖ Thousands of women have lost their house, they live in the street, on small boats, or in other unsafe places;
- ❖ Thousands of women are sexually violated, face sexual harassment and intimidation;
- ❖ Thousands of women have health difficulties (i.e., stress, trauma, the children get sick);
- ❖ Thousands of women face difficulties in enabling their children to continue their education and in taking care of their children;
- ❖ Thousands of women lose their incomes;
- ❖ Thousands of women lose their belongings;
- ❖ Thousands of women lose their communities;
- ❖ Thousands of women lose their rights to negotiate, to determine their own life.

The strategy

Actions that have already been taken include:

1. Lawsuit against the President and Local Government
2. Campaign for removal of Local Policy 11/88
3. Campaign for Sutiyoso's resignation
4. Paralegal training

Since 2002 Urban Poor Consortium has been trying to change its approach to develop a more women-specific program - focusing on supporting women leaders in the community and raising gender awareness.

Actions that are currently in process include:

1. Campaign targeting the international public
2. Media campaign targeting the national public
3. Organizing with experts (architects, water engineers, etc.) to develop arguments and alternative solutions (e.g., mobile homes)
4. Approaching:
 - ❖ National Commission of Human Rights
 - ❖ National Commission of VAW
5. Lobbying selected government ministries
6. Obtaining land certificates
7. Obtaining birth certificates
8. Networking with other areas (e.g., UP LINK)
9. Collecting data

Actions that are planned for the future include:

1. Take class actions to court
2. Segregate data

3. Invite the Special Rapporteur on adequate housing to Indonesia
4. Report to the Special Rapporteur on violence against women
5. Report to the CEDAW Committee

Domestic Violence in Sri Lanka

By Yogamberam Engalsevi, translated by Krishnan Yogeswary

I married in 1988 at the age of 19 years. It was a love affair. My parents were against our affair. Without informing anyone my lover took me to his home and we got married. There were five family members in my husband's home including his father, mother, younger brother and both of us. It was a small line room house with a tiny verandah. The verandah was also used as a kitchen. The room was 10' x 12'.

My sister-in-law and mother-in-law slept on the verandah. My husband and I slept in the room. His father slept on the bed while we slept on the floor. It was wet underneath. As the door can not be closed my mother-in-law used to enter the room suddenly in search of various things. When my mother-in-law entered the room I used to sit up on the mat.

In 1989 I gave birth to my son. After the birth of my child my husband rarely came home. When I asked why, he used to assault me. One day he tried to burn me with an iron rod. But I ran through the door and escaped. On another day my husband was drunk. He tried to poison my son, but the people from next door came running and prevented him. When I asked why my husband was behaving in this manner I found out that he was having a love affair with another woman.

After some time he was again nice to me. Then I conceived our second child. Seven months after the birth I wanted to go to family planning to get sterilised. I was scared to ask my husband for his signature for the medical procedure. So I told him I needed his signature to enter the child into creche and I managed to get his signature. I had to travel to Ragala for the sterilisation. My husband did not accompany me. But I later found out he had accompanied his lover when she went to Ragala.

Due to the problems I went to work overseas. I was employed overseas for two years. After I returned I noticed that my husband rarely came home. I tried to find out what he was doing and where he was going. One day I found out he was dining with that woman late at night at her home. I shouted at him, and he assaulted me with a bottle. After that I had to live with the problems for some time. But now, for the last five or six years both of us have been living together happily.

Nomadic Women in India

By Dholi of the Bhavaria nomadic tribe in India

As nomads, we were hunters by profession. Before Independence we were allowed to hunt and live in the forest, according to our traditions. This was stopped after Independence. Now most forests have been declared natural reserves, so we are no longer allowed to hunt and live in the forest. We have become illegal in the forest. So we don't have basic facilities such as food and water. The forest guards monitoring the forest harass us, including sometimes raping and sexually harassing our women.

Due to the forest restrictions we can no longer practice our traditional way of livelihood, so many of us now want to settle. However, as well as being considered illegal inside the forest, we are also considered illegal outside the forest. The Bhavaria tribe is one of several tribes that were historically declared criminal tribes in India because they were stereotyped to be robbers and looters. Such stigmatisation continues to impact on our rights today. If we try to settle near a village, we face a lot of discrimination from the local communities. Wherever we go we are not allowed and are harassed everywhere. This also often manifests in VAW, rape and sexual harassment against our women.

As a result of this situation, government goods such as rations are not provided to us. We cannot access government services such as education and health care - many of our babies are delivered in the open, under the trees. Instead of human beings now what we have to confront are monkeys. The villagers refuse to let our children go to school. Our women especially face difficulties in accessing water because many of the sources of water belong to other communities, who attack, beat and rape our women when they try to access these sources of water. The fact that we do not have proof of a ration card or election card is another part of the problem in accessing housing. The local villagers make the situation difficult for us by making accusations against our men, who are then put in jail. As the children cannot attend school and because of the lack of personal security for our women, we marry our girls from a very early age.

Some 15 years ago we founded an organisation, with the idea that we settle on the fallow lands where nobody lives. However, we were afraid to because in the past when we had attempted to, local villagers burnt our villages. We have however started to settle, but face constant threats. Our men have to travel long distances for work, leaving our women at home, vulnerable to the brunt of these atrocities.

Even when we approach higher authorities, nobody listens. Over the last three months I have been requesting the authorities for ration cards, but these have still not been given. During an election, fake identity cards are given to members of our community so that we can vote for the politicians, but the cards cannot be used to access any other goods or services, and after the election, the politicians refuse to address our needs.

A little bit of information is reaching us. However, we need more information on what programs are available, so that we can access goods and services.

The main part of our life has passed away, but we need to think of our children and their futures.

If we had a house and we could lock it up, we would be safe and it would be better. At the moment, living under trees, we are always open to abuse and violence.

Land and Inheritance Rights in Nepal

By Ratna Shreshtha of Forum for Women Law and Development, Nepal

Present Situation of Nepal (context)

- Area - 147,181 square kilometres
- Total population - 23,151,423 persons
- Male - 11,563,921
- Female - 11,587,502
- 85% of women are engaged in agriculture but only 10.8% of women have land ownership, and within this percentage, the amount of land ownership is not high.

The status of women in terms of their property rights can be divided into four categories:

- as a daughter
- as a wife
- as a divorcee
- as a widow

Guarantees for women's property rights:

- Nepal has ratified 16 International Human Rights conventions including ICESCR, ICCPR, CEDAW and CRC. But the implementation of these conventions at the national level is very poor.
- *The Constitution of the Kingdom of Nepal, 1990* also contains some guarantees:
Article 17 – recognises citizens' right of property in terms of their right to: earn property, exercise property, sell property and transit property.
Article 11 – recognises equality between men and women, including equality before the law.

Case Study 1²⁷

The legal status of Nepalese women to inherit property is based on their marital or sexual status and their right to ancestral property is fragile, temporary and imperfect. There are many preconditions attached for women to get a share in either parental or their husband's property. Even when they do receive their share, women do not often have full and complete ownership. This disparity has led to women having a secondary status in society as well as being deprived of access to resources, and being made economically dependant on others. It undermines the existence of women as individuals. Women lag far behind men in social, economic, political and legal aspects, thus restricting them from leading a complete and dignified life. This leads to gross violations of women's rights.

Equal property rights have been both a sensitive and burning issue in Nepal. Even though there have been many activities designed to achieve women's rights, the legal and strategic movement for equal property rights began in 1993 when Advocate Meera Dhunagana filed

²⁷ *Activities on Equal Inheritance Rights for Women*, Forum for Women, Law and Development, Nepal, June 2001-July 2002.

a writ petition challenging the discriminatory provisions that require a daughter to be unmarried and to be 35 years of age to receive her share of parental property.

The Supreme Court declared the provision to be discriminatory to the extent that a son gets the right to property as a birthright whereas in the case of an unmarried daughter she can get it only upon reaching 35 years. The court issued a directive order to the parliament in 1995 to introduce an appropriate bill within a year for the consideration of the family laws relating to property.

It takes two years to issue a directive to Parliament. Parliament took the court's directive order seriously and on 26 Sept 2002, changed the law, in the form of the eleventh amendment to the Country Code 1963.

Country Code 1963, Eleventh Amendment

The eleventh amendment recognizes:

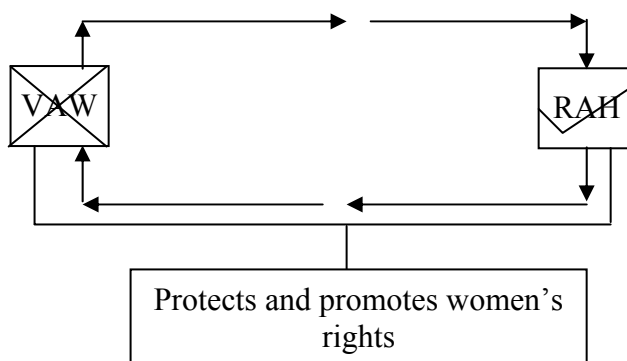
- Daughters as heirs of the family or inheritance property right as a birthright
- Rights of the wife to the husband's property
- Inheritance rights of divorcee women
- Full inheritance rights of widows
- Equal rights of unmarried daughters to intestate property

Such recognition to some extent is also reflected in the *Land Act 1964*, Section 26, as a result of the case, *Sapana Pradhan Malla vs HMG*; and in the Tenth Plan.

Interlinkages between VAW and RAH

The linkages between VAW and property rights create a very integrated cycle between VAW and RAH.

If there is a situation of VAW in the home, woman's right to adequate housing is violated. Having the RAH can stop situations of VAW related to the home. VAW has to be eliminated to ensure the protection of women's RAH. If we could protect women's human right, that protects RAH and stops VAW. Therefore, we need to eliminate VAW and ensure women's RAH.



Case Study 2 – Interlinkages between VAW and RAH²⁸

Sita was married seven years ago. In 1999 her husband asked her to sign some documents, which he informed her were for obtaining citizenship. But for months her husband did not inform her about the documents. Later she came to know that those documents were divorce papers and that the District Court had already decided in favour of their divorce. After knowing about the decision, she filed a case for continuation of marriage by cancelling the verdict on divorce. The Court gave a decision in her favour. Though legally she won the case, her husband threw her out of the house and now she is living in her parent's home. In her parental home she doesn't have any claim as a matter of right and whatever they provide her is nothing but mercy.

Threats and obstacles

Cultural obstacles:

- Patriarchal social structures;
- Male dominant norms and values;
- Son preference (a common saying is, “never mind the delay as long as it is a son”);
- Stereotyped gender roles.

Legal obstacles:

- Discriminatory laws – In 2003 FWLD has updated its previous study on Discriminatory Laws in Nepal and its Impact on Women, which has identified 137 legal provisions in various Acts and Regulations, including the Constitution itself, directly discriminated against women²⁹;
- Lack of effective implementation of the existing laws;
- Lack of gender sensitization in the judicial bodies – which creates a context of impunity for male perpetrators, thus making women more vulnerable;
- No specific law on DV and VAW – parliament presented a bill in 2002 but due to the dissolution of parliament it has lapsed. FWLD had also made comments on the bill. But as the bill has lapsed, a new Bill has to be introduced in the parliament. The Bill had various gaps and weaknesses; therefore, to reform those gaps and weaknesses a draft bill was prepared by the FWLD and was disseminated to all the concerned agencies.

Other obstacles:

- Non-fulfilment of state obligations;
- Lack of co-ordination between different government bodies;
- Lack of political commitment – during elections political parties include women's rights in their manifesto, but don't follow through on these after elections;
- Lack of resources;
- Lack of awareness.

²⁸ *National Event for Gender Equality: Activities Report 2001-2002*, Forum for Women, Law and Development, Nepal, 2002.

²⁹ *Shadow Report on the Second and Third Periodic Report of Government of Nepal on CEDAW Convention*, CEDAW Monitoring Committee, Nepal, Coordinated by Forum for Women, Law and Development (FWLD), November 2003

Who are the victims?

All Nepalese women are victimised by these obstacles, but specifically poor women and marginalised women are more victimised.

Impacts and consequences

- The lack of property rights makes women economically dependent on male members of the family;
- Domestic violence;
- Violence against women;
- Lack of access to resources;
- Deprived of opportunities for employment;
- Results in women having an inferior status;
- Lack of access to justice;
- There is also a wider impact on restricting national development.

Who is responsible?

1) The State, including:

- law and policy makers;
- law interpreters; and
- law enforcers.

2) Civil society

Strategies for intervention

- Women's groups on VAW have not actively recognised housing rights as a problem, so there is a need to conduct research on RAH and the links to women's rights, particularly in situations of VAW;
- Amendment of discriminatory laws;
- Monitoring of effective implementation of existing laws;
- Reformulating social thinking through awareness-raising;
- Changing stereotyped roles;
- Enacting specific laws on domestic violence and VAW;
- Monitoring State's implementation of obligations;
- Building political commitment to ensure RAH.

Women's Right to Guardianship

By Ferdousi Akhter of Naripokkho, Bangladesh:

1. Entitlement

- Security of tenure, affordability, habitability, accessibility, freedom from dispossession, participation and self expression, safety, security (physical, mental/psychological)

2. Overriding principles

- Non-discrimination, gender equality, rule of law.

3. Guarantees

- Constitution, CEDAW, CRC

4. Threats/obstacles

- Personal laws
- Discrimination
- Community attitudes
- Social stigmatisation
- Stereotype views of law-enforcing, law-making bodies
- Reservation on Article 16c of CEDAW (marriage and dissolution)
- Victimisation - women face discrimination in every situation

5. Impacts/consequences

- Women forcibly lose their property rights because when they are divorced they are evicted from their home;
- Low status within the family, community and society because society is male-dominated and women without husbands have no status;
- Psychological trauma

6. Duty holder

- State (national legislatures, judiciary, police)
- Community

7. Action/intervention

- Research and advocacy on ratification of Article 16 C of CEDAW
- Discussions with boys and girls in schools, teachers and local chairmen (community level)
- Seminars/workshops with the concerned ministry, NGO networks, Ministers of Parliament, civil society (policy level)
- Publish leaflets, posters to raise awareness about the issue

Rationale for focusing on guardianship rights as a means of addressing VAW and RAH

Gender-based discrimination under the following laws leads to violence, which leads to violations of the right to housing:

- Marriage and divorce law;
- Maintenance of guardianship law;
- Inheritance law.

The combined impact of the above three laws makes women's position in the family very vulnerable. While some efforts are being made to reform the *Marriage Act*, the issue of women's right to guardianship is being used as the main entry point to loosen the tight knot created by these three laws, and thereby to protect the right to housing.

Further, it is difficult to directly advocate against the inheritance laws because according to the religious beliefs in Bangladesh, the inheritance laws have come from Shariah law so to reform them would be an intervention in God's law. Because of these barriers, women's groups are building pressure through alternative routes, such as the guardianship laws.

Some of the ways in which the above laws discriminate against women are:

- Women are required to notify authorities whether they are a virgin, divorced or a widow, whereas men are not required to give such information;
- Women can divorce their husband, provided one of the eight conditions of the law is satisfied (e.g., husband has been absent for 7 years; the woman is declared mentally insane). However, the husband has the power to divorce his wife at any time without cause.
- In the case of a divorce, if a woman has a boy she can be the custodian until the boy reaches 7 years of age and until the girl reaches 18 years of age. If at any point she marries another person then she loses her custody.
- Many poor women are not aware of the legal requirement to register their marriage. Most marriages are witnessed by relatives, local leaders, chairman, but without proper registration papers (no nekhamas). Sometimes, in middle-class families, the marriage happens by affidavit but it is not legally binding. Where the marriage is not registered and divorce takes place, the woman cannot get maintenance, so suffers financially, does not have adequate housing and is at great risk of VAW.
- If the wife has a boy often the husband wants custody of the boy and will financially support him. If it is a girl, she is often considered a burden so the husband doesn't want to take the responsibility.
- Whether women are financially independent or not, they are not able to get guardianship rights. Without a husband a woman has no status and the guardianship right reverts to the paternal side.

One positive change that has occurred in the law is that legal documents pertaining to guardianship matters now provide a space for the mother's signature along with the father's signature. Previously there was no space for the mother's signature. For children with no father, they had to have the signature of another legal guardian on the paternal side, but it could not be the mother. This has now changed.

Naripokkho is also advocating against gender discrimination in the differences in ages given under the laws for girls and boys.

In the *Child Restraint Act* the age is 16 years. The problem is many poor families who have 3-4 children and only one earning member, cannot pay for the upkeep of 3-4 children. So the girl child is often sent to the in-laws at the age of 13-14 years. Such early marriages have a long-term impact on the girl's reproductive and mental health.

In cases of elopement the victim must prove she is above the age of 16. If a girl ignores her parents and marries the person she loves, the girl's family files rape cases against the husband and to do this must prove the girl is under 16 years. The boy's family tries to get a birth certificate to prove she is over 16 years. In women and children restraint and rape cases, until the accused is arrested, his relatives are arrested and there is no chance to get bail within 3 months.

Hill Tribe People

By Noraeri Thungmuangthon, Thailand

Thailand is situated in South East Asia. It shares borders with Malaysia, Cambodia, Laos and Burma. Thailand has an area of 517,000 square kilometers. The capital of Thailand is Bangkok. Thailand has an estimated population of 61.4 million people. Thailand is divided into four regions.

Hill tribe communities composed of Karen, Loai, Lahu, Lezu, Hmong, Akha, Meaan, Dara Agn, Ma Bree are commonly settled in the North and along the western border of Thailand. Geographically, the North of Thailand is characterised by mountainous landscape, much of which has been declared protected areas such as national reserve forests, National Parks and Wildlife Sanctuaries. I come from the north region, where thousands of hilltribe communities reside.

The majority of us are engaged in farming. But the farming has been plagued by critical land ownership issues. Throughout the past 4-5 years, our homes and farming areas have been affected by an illegitimate upsurge of Protected Area expansion. This means that the lands, where many of our past and present generations have lived, have been converted to 'restricted zones' where people are no longer allowed to live. Consequently, our farming areas have been diminished, leading to a steady decline in our food production and limited access to natural resources necessary for our traditions and survival. In simple terms, we have suddenly become forest encroachers under government law, despite the fact that we have been living there since even before the law was enacted.

As a result of losing our land, we have witnessed a gradual social change in our villages. Fathers and young people have begun to move to the lowlands and the city, in search of alternative livelihoods. Adjusting to the new complex environment of the city has been difficult and they have encountered a number of problems - for example, being taken advantage of by employers. Women have also had to migrate to find jobs. Women are considered more prone to have their human rights violated than men due to the language barriers and their vulnerability to sexual violations and harassment. Legal redress for such abuse has been virtually non-existent. We have no understanding and awareness of legal services and other services provided by the government.

Problems with language have hindered us from communicating and have meant we are absent from government records. Many hill tribe people have not even been recognised as citizens of Thailand, even though we were born in Thailand. One of the reasons for this is the arbitrary recording of births by responsible government agencies. To date, because we are not recognized as citizens, many of us do not receive social welfare.

Social inequality has a strong impact on the level of education and provision of social services that every individual as a citizen is entitled to have. This in turn has a direct bearing on the health, food security, and overall personal development of hill tribe peoples. We have not been able to participate in the political arena, nor are we adequately represented, making it easier for us to be exploited by the society.

Women's Insecurity

There has been increased migration occurring among hill tribe communities, as a result of insufficient income from growing cash crops, mounting debt and lack of land tenure security. Furthermore, our traditional farming practices of shifting cultivation, which have been largely misperceived as practices that are destroying the forest, have been restricted, which has further limited our capacity for agricultural production that supports our livelihoods throughout the year.

By moving to the city, we are stigmatised by a very hurtful perception among members of the community that remain in the village, of being 'bad girls'. Culturally, we are not allowed to create our own destinies, so become reliant on others, especially men. As a result, when we are suddenly forced to face life's challenges alone, we are very vulnerable.

Additionally, if we have failed to fulfill our roles as women, by passing on the traditions to our children, we cannot sustain our livelihoods. Women are key figures who restore conflicts in the family. So domestic violence has a direct impact on the family as a whole. Consequently, for hill tribe women, finding peace at home is as equally important as gaining entitlement to adequate housing.

Despite responsibility and the roles that we have to bear we have not been empowered to make decisions and take charge if our husbands pass away. Not much local wisdom and intuition is embedded within women. By tradition, we are not allowed to inherit the property of our parents because our husbands are expected to support us. But if our husband is poor, then our lives are left hanging onto a thread of insecurity.

To date, even though we have access to adequate housing, if we do not have land, our livelihood will be destroyed. Likewise, without forest and water we cannot survive. Adequate housing should include the security and availability of farming land and forest resources, which are the main supports of our lives. Rights to adequate housing should thus encompass the right to live with peace and happiness and to live without being harmed physically and spiritually. Lastly, the right to life is the right to preserve our culture and be able to practice our traditions of shifting cultivation as well as having the rights to teach and look after our children.

Recommendations

To ensure peace and the sustainable livelihoods of our hill tribe communities, we demand:

1. Preservation of hill tribe culture and traditions that have been eroded, specifically the traditional practice of shifting cultivation. Furthermore, we also demand elimination of destructive cultural practices that have a direct bearing on the livelihoods of women;
2. Complete eradication of domestic violence;
3. Absolute termination of physical and spiritual violations of women's human rights;
4. The UN to take a greater role in pressurising the Thai government to recognise and promote the right of hill tribes to manage natural resources in accordance with their own local wisdom and to grant hill tribes the right to access land resources as a fundamental right for human survival.

Smallscale Fisherfolks

By Kasinee Kwangcharoen, Thailand

As a development worker I have been working closely with the Southern small-scale fisherfolk, who are one of the most marginalised groups in Thailand. I have gradually become part of the fishing community and part of their movement for justice and basic rights. In this respect, I am delighted to represent the small-scale fisherfolk and help voice their concerns and propose alternative resolutions to bring an end to the undue hardship placed upon them.

The small-scale fishery constitutes 92.3 percent of all fishing households, or approximately 53,343 out of 57,801 fishing households in Thailand. The remaining 8 percent of fisherfolk are engaged in commercial fishery and harvest up to 80 per cent of the resource. Even though, it appears that we (the small-scale fisherfolk) are the majority group of fisherfolk, at present, we are struggling to sustain our livelihood because of the coastal resource degradation and the violation of our rights to housing.

The underlying cause of these problems is deeply rooted in the government's unfair policies that aim for maximum resource extraction. This has been activated through the promotion of commercial and large-scale fishing operations with destructive fishing equipment and a failure to respect our right to participate in resource management. For us, the most concerning problem is not being allowed to have our settlements along the sea fronts, which we need to have ease of access to the sea. More and more sea front areas are being designated Marine National Parks. When this happens, we become encroachers on state land and are not allowed to utilise coastal resources or construct our homes in these areas. This demonstrates how the government's laws and policies segregate us from the sea and our homes and violate our rights as human beings.

We simply want a home and secure food sources. In our mind, the meaning of housing embraces more than just basic shelter. Housing also includes access to resources and occupations that earn us a sufficient income to survive. We have no desire to mine and gain profit from the resources because our traditional wisdom has taught us about the true nature of the sea and how our own lives would be harmed if the sea was over-exploited. Therefore, we abide by the principle of sufficiency, to ensure that these resources continue to be available in the long term. In the same vein, we appreciate and are satisfied with what we have, without desiring extra. However, with the forces of globalisation reigning the government's thinking, the policies and laws are geared towards the capitalist mode of production, which only serves the endless greed of a minority. We, as a community of traditional people who live closely with the resources, are therefore threatened.

We, the women in fishing communities work shoulder to shoulder with the men. At the household level, we also are vital human assets to our families. It is the women who possess profound knowledge and skills for food processing and household financial management, which are gifted skills that men do not have. Further, without enough food and income to sustain our livelihoods, our community has disintegrated and we as women have to shoulder the extra burden of earning extra income. With increasing pressures at a family level, we are at risk of being emotionally and physically abused. Often we move to

the city in search of new jobs and alternative sources of income that do not correlate with our traditions and skills. We are transformed into hired labour for the industrial sector operating along the coastal areas, working long hours as sub-contracted workers, under dangerous working conditions, and earning petty wages. Some of us unfortunately turn to prostitution. Even within the women's movement we have to create space for these diverse groups of women.

As unbelievable as it seems, it appears the government is making a conscious effort to ethnically cleanse the small-scale fisherfolks, driving them to become labourers for industries which are characterised by the capitalist mode of production and a lack of concern about the welfare of their workers.

With the government failing to respect our rights, we are unable to develop ourselves and unable to play greater social and political roles. On this basis, it can be said that the government is failing to act in accordance with the good-spirit of the 1997 National Constitution. It also fails to meet international human rights principles, in particular paragraph 61 of the Habitat Agenda, which states that "Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realisation of the right to adequate housing"; and the International Covenant on Economic, Social and Cultural Rights (art. 11.1), which states that, "The States Parties to the present Covenant recognise 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 realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent."

We, the women of small-scale fisherfolks can no longer bear such violations and therefore represent ourselves here to make the following recommendations for the Thai government to:

1. Immediately revoke the Forestry Act and Fishery Act and related policies that do not promote sustainable coastal resource management
2. Enact alternative laws and a juridical system that recognizes the rights of small-scale fisherfolk to participate in coastal resource management and the use of their traditional knowledge as a means and approach for sustainable coastal resource management.
3. Develop a programme that aims to enhance women's skills and open up political space for women to take a great social role in the society.
4. Reduce the gap in fisherfolk women's communication and education as a means to achieving equality and respect for women fisherfolk's human rights and human dignity, as dictated by the Constitution.
5. Provide a political space for women to participate in national resource management at both the policy level and local level.
6. Promote a sustainable economy at the grassroots level by developing alternatives that lessen the escalating degree of livelihood vulnerability and ensure the disintegration of communities is prevented.

We also recommend the United Nations to take a responsive role in addressing the above concerns by:

1. Exerting pressure on the Thai government to take appropriate action to promote, protect and ensure the full and progressive realisation of the rights to adequate housing;
2. Firmly addressing and urging states to address the underlying causes of natural resource degradation, which relate to policies of economic growth;
3. Supporting government and non-government organizations and consulting concerned communities on radical means to address problems of natural resource degradation, poverty, and human rights violations which include the right to adequate housing and other social services;
4. Continuing to raise awareness at the international level and grassroots level on the issue of violence against women and facilitate greater dialogue between governments and women fisherfolk to voice the concerns of all involved.

Migrant Women and Housing

By Connie Regaldo, Hong Kong

I. Background

Hong Kong is home to 237,110 migrant domestic workers (MDWs) mainly coming from countries such as the Philippines, Indonesia, Thailand, Nepal, Sri Lanka, India, Pakistan, Bangladesh, Myanmar, Malaysia and Singapore (as of December 2002). Philippines has the largest population of 140,000, 80,000 from Indonesia, 7,500 from Thailand, 1,200 from Sri Lanka, and 800 from Nepal and other nationalities.

More than 90 per cent are women:

- Coming from diverse cultures (e.g., indigenous), customs and traditions, religions (Catholics, Protestants and Muslims), experiences and backgrounds.
- They are single, married, widows, single parents.
- They are professionals, factory workers, peasants, school drop-outs, urban poor women etc.
- They are victims of forced evictions, victims of militarisation in the countryside, women who are unemployed, women who are deprived of their means of livelihood, women who are being discriminated against as a result of IMF-WB/Globalisation Policies where basic social services are being privatised, or as a result of corrupt governments. In short, they are victims of state violence.

II. General Legal and Policy Framework

Sources

1. International Convention on the Elimination of All Forms of Discrimination (ICERD)
2. Convention on the Elimination of Discrimination Against Women (CEDAW)
3. Convention of Economic, Socio-Cultural Rights (CESCR)
4. International Convention on Cultural, Political Rights (ICCPR)
5. Convention on the Rights of the Child (CRC)

Guarantees

- Bill of Rights Ordinance - ensures that foreign workers are afforded equal protection before the law.
- The Employment Ordinance - provides employment benefits to all workers including migrant domestic workers.
- Minimum Allowable Wage (MAW)
- Employment Contract
- Two-week rule
- Discrimination ordinances - Sex Discrimination Ordinance, Family Status Discrimination Ordinance, Disability Discrimination Ordinance, Equal Opportunity Commission
- Privacy Ordinance
- Public Order Ordinance
- Policy on Setting up a Monitoring Camera in the Workplaces

- Equal Opportunities Commission
- Race Relations Unit – drafting anti-race legislation

Guarantees held by Sending Governments:

- OAV of 2003
- RA 8042
- POEA Rules and Regulations

General Assessment of Housing Conditions of Migrant Domestic Workers

Housing for migrant domestic workers is their workplace. Since it is the employer’s house, migrant workers are only given space by employers in compliance with the employment contract. The accommodation area could be shared with their wards (elderly male & female, grown-up children of both sexes, infants and toddlers and even employers). Accommodation areas take the form of:

- Kitchen
- Opets
- Bath tub
- Toilet bowl
- Cupboard
- Balcony
- Store room
- Private room without proper ventilation (no windows, air conditioner or electric fan).

Generally, housing for migrant domestic workers are below standards making them more vulnerable to abuse and exploitation. No one can attest to whether the domestic workers’s conditions meet the standards identified in the existing laws and policies applicable to migrant domestic workers.

III. Specific Elements of the Right to Adequate Housing

Entitlements	Overriding Principles	Threats and Obstacles	Impacts and Consequences	Duty Holders
Security of tenure	Self-determination	Lack of monitoring system	Domestic violence such as rape, sexual harassment & abuse, physical assault	Community: Migrant orgs. Women’s orgs. Trade unions Human rights orgs. Migrant servicing institutions
Public goods & services	Non-discrimination	Termination because of pregnancy with or without reasons	Homelessness	Private sector: Recruitment agencies
Affordability	Gender equality	Employer initiated abortion (sign an internal agreement with employer that she will not become pregnant while under employ)	Unemployment	HK agencies: Economic Development & Labour Bureau/LD
Habitability	Rule of law	Enforcement of live-in arrangement	Illegal work	
Accessibility	Non-retrogression		Confiscation of documents such as employment contract, passport & HK identity card	
Location			Underpayment &	
Cultural adequacy				
Information,				

Entitlements	Overriding Principles	Threats and Obstacles	Impacts and Consequences	Duty Holders
capacity & capacity bldg. Participation & self expression Security (physical) & privacy		Two-week rule Privacy Ordinance Judicial System Insufficient policies ordinances (Dos) Privatisation of services (health, water, transportation & housing) Exclusion of MDWs from health subsidy if she is sick or meets an accident while on home leave outside of HK- not allowed to go to hospital Employment Retraining Ordinance Discrimination Funding Lack of cultural appropriateness	delayed payment of salary Long working hours No day off Illegal deduction Poverty Deprivation of adequate housing for her family and other basic services	Home Affairs Bureau/Race Relations Unit/Committee on Racial Harmony Security Bureau/ID Equal Opportunities Commission HK Police Legal Aid Department Dept of Justice Violators: Employers Recruitment agencies Police Consulates Immigration officers Labour officers

IV. Actions

1. Migrant community:

- Participate as voters in the Philippines electoral process. Recently the Philippines has approved absentee voting. So MIGRANTE has formed a sectoral party and I am running for elections as a means to have direct input into state policy-making.
- Expand and strengthen migrant organisations, reach out to the broader numbers of migrant domestic workers;
- Set up welfare committees in each organization;
- Organise gender sensitivity training among migrant workers (male and female), paralegal training, peer counseling;
- Conduct widespread human rights education among migrant domestic workers;
- Strengthen alliances and solidarity with other Asian migrant organisations;
- Establish and strengthen linkages and cooperation with other groups such as women organisations, trade unions, human rights advocates, migrant-serving institutions at all levels;

- Active involvement in the process of drafting anti-race legislation through submissions and involvement in consultation processes to ensure that concerns of MDWs be taken into account;
- Campaigns on the recognition of domestic work as work and abolition of the two-week rule and enforcement of live-in arrangements.

2. Non-government organisations/civil society:

- Solicit more active involvement and participation of migrant domestic workers in international and regional consultations and conferences to project the issue, raise public opinion and gather wider support;
- Active representation of civil society groups/NGOs through advocacy and lobbying with governments, civil society, trade unions, women's groups and governments;
- Set up more shelters and networks to share spaces and assist in case management;
- Provide training on gender sensitivity, UN mechanisms, lobbying, paralegal, peer counseling, and organisation development skills, etc.

3. State:

Hong Kong -

- Implement overriding principles stipulated in international human rights instruments;
- Abolish the two-week rule;
- Provide flexibility in accommodation arrangements i.e., abolish the enforcement of live-in arrangements;
- Enact the anti-racism bill;
- Set up a strong monitoring mechanism.

Sending governments -

- Philippines: repeal Sections 29 & 30 of the *Republic Act 8042* which deregulates the deployment of Filipino migrant labour;
- Establish a bilateral agreement with China for a standard protection for migrant workers;
- Set up shelters for their citizens and provide adequate services in and out of jobs;
- Create an independent investigation on the situation of MDWs;

Recommendations:

For Special Rapporteurs on Migration, AH and VAW to:

- Urge the Hong Kong government to repeal its policies on the two-week rule, enforcement of live-in arrangements and other anti-migrant policies;
- Conduct a study on migrant policies and their impact on migrant domestic workers and include it in their report to the 60th UN Commission on Human Rights session.

For states to:

- Ensure external accommodation is provided if the employer has no accommodation for the worker.
- Provide shelters for displaced citizens (i.e., there was a case where an over-stayer was sexually harassed by an official).

Foreign Domestic Helpers (FDHs) Population in Hong Kong (1990-2002)

As at the end of Month Year		Philippines	Indonesia	Thailand	Other Nationality	TOTAL
Dec	1990	63,600	1,000	4,300	1,400	70,300
Dec	1991	75,700	1,800	5,600	1,500	84,600
Dec	1992	89,100	3,500	6,700	1,900	101,200
Dec	1993	105,400	6,100	7,000	2,100	120,600
Dec	1994	121,200	10,700	7,100	2,400	141,400
Dec	1995	131,200	16,400	6,700	2,700	157,000
Dec	1996	134,700	21,000	5,800	2,800	164,300
Dec	1997	138,100	24,700	5,100	3,100	171,000
Dec	1998	140,500	31,800	5,300	3,000	180,600
Dec	1999	143,200	41,400	5,760	3,340	193,700
Dec	2000	151,490	55,200	6,450	3,650	216,790
Dec	2001	155,450	68,880	7,000	3,950	235,280
Jan	2002	155,760	70,520	7,000	3,980	237,260
Feb	2002	155,200	70,890	6,990	3,970	237,050
Mar	2002	154,470	71,520	6,990	3,990	236,970
Apr	2002	154,300	72,200	6,990	3,990	237,480
May	2002	154,050	73,280	7,000	3,990	238,320
Jun	2002	153,670	74,760	7,010	3,970	239,410
Jul	2002	153,460	75,770	7,010	4010	240,250
Aug	2002	152,970	76,590	6,970	4,000	240,530
Sep	2002	151,100	77,170	6,940	3,970	240,180
Oct	2002	151,990	78,110	6,920	4,000	241,020
Nov	2002	150610	78,140	6,810	3,940	239,850
Dec	2002	148,390	78,170	6,670	3,880	237,110

Minimum Allowable Wages for Foreign Domestic Helpers from 1973-2001

Year	MAW	Percentage of Change
1973	\$450	N/A
1974	\$500	11.1%
1975,	\$600	20.0%
1976	Absence of Data	N/A
1977	Absence of Data	N/A
1978	\$750	N/A
1979	\$950	26.7%
1980	\$1050	10.5%
1981	\$1200	14.3%
1982	\$1350	12.5%
1983	\$1650	22.2%
1984	\$1650	0.0%
1985	\$1800	9.1%
1986	\$1900	5.6%
1987	\$2300	21.1%
1988	\$2500	8.7%
1989	\$2800	12.0%
1990	\$3000	7.1%
1991	\$3000	0.0%
1992	\$3200	6.7%
1993	\$3500	9.4%
1994	\$3750	7.1%
1995	\$3750	0.0%
1996	\$3750	0.0%
1997	\$3860	2.9%
1998	\$3860	0.0%
1999	\$3670	-4.9%
2000	\$3670	0.0%
2001	\$3670	0.0%

Globalisation and the RAH in Korea

By Young Sook Cho, Korea

Economically Korea is considered to be reasonably well-developed, but as a result of the financial crisis in 1997-2000, which came about as a result of the negative impacts of globalisation policies, Korea has experienced some economic set-backs. The two main elements of housing to consider are:

- Protection – stop the structural causes of RAH violations and VAW; and
- Promotion – ensure housing is affordable (pricing/financing) and civil society to ensure state accountability for RAH and VAW.

Negative impacts of globalisation of women

The train of globalisation is pushing forward policies for privatisation, deregulation, market competition and market flexibility, which are causing polarisations in society and increasing poverty.

The specific negative impacts of these globalisation policies on women in Korea include:

- Women have been the first target in redundancies (discrimination by the market);
- Women have been the last target of government policies and civil society efforts to address the impacts of the economic crisis. i.e., no gender-disaggregated concern and no women-related public policy (discrimination in government welfare policies);
- Informalisation of women workers; 70% of informal workers are women (lack of legitimacy of women workers, as compared to formal workers);
- Increasing domestic violence, sexual violence, prostitution and sex trafficking in women - as women are driven to taken these options due to the impact of globalisation on other employment opportunities for women (victimisation by society).

Such impacts have lead to feminisation of poverty, increased vulnerability of women to VAW and discrimination against women in government policies. These trends have particularly affected marginalised groups of women, including: disabled women, single mother households; aging women (many grandmothers are now required to take on the role of caring for their grandchildren, without the support of their husbands or children); girl children (especially those living on the streets are vulnerable to becoming engaged in prostitution); young unemployed women (many young women have become disillusioned with the idea of seeking employment in the labour market because of the lack of jobs available for women); migrant women; and victims of domestic violence, sexual violence, prostitution and trafficking.

Aggravating factors arising in a patriarchal society

In the East Asian context, patriarchal society is based on Confucius principles. Patriarchy is not always explicitly visible, but if you trace the root causes of gender discrimination and women's inequality, they always lead to patriarchy.

The critical impact of patriarchy is the gap between *de jure* and *de facto* recognition of women's rights.

The *de jure* recognition of women's rights is contained in:

- Sexual Equality Employment Act (1987)
- Act on the Punishment of Sexual Crimes and Protection of Victims thereof (1993)
- Prevention of Domestic Violence and Victim Protection Act and Special Act for the Punishment of Domestic Violence (1997)
- Gender Discrimination Prevention and Relief Act (1999)
- Anti-Prostitution Act (2004)

The exception to note is that while Korea has ratified CEDAW, it has a reservation on Article 16 (inheritance of family surname). The reason for this is that in Korea, a surname is much more than a name, it also identifies who has the right to land, i.e., in a married couple, women are considered a guest. So under Korean law, only the father's surname can be succeeded to children, not the mother's surname. This has led to unequal relationships between the wife and husband in the home; an obsessive preference for boys to be born, to the extent that there have been cases of unborn baby girls being aborted; and significant difficulties for divorced mothers and their children.

The *de facto* recognition of women's right has been much less due to:

- limited interpretation
- limited prosecution
- limited implementation
- limited practice
- low awareness and consciousness
- low participation of women in the political arena

How society defines housing issues in Korea

There is a long history (20 years) of scarcity of housing and unaffordable prices for housing in Korea. This has been due to the rapid economic development, the density of population in urban city areas, the supply-centered approach in government housing policies and the impact of the economic recession related to globalisation.

In June 2003, civil society groups put forth a Basic Standard of Housing Bill, for parliament's consideration. The Bill defines basic quality of housing for a 4-member family to be 30 square meters in size, with a toilet and a kitchen and adequate sunlight, air and a heating system. This standard does not address related issues of VAW. The National Assembly failed to adopt these minimum standards because it would require a large number of houses to be upgraded and there was insufficient budget to do that.

The high cost of housing is a result of high levels of speculation on capital due to the uncertainty of the financial market, which has led to:

- failure in government policy
- triggering behaviours.
- Stratification of residences and communities. The main division has been between north and south of the river. The price of the same size house is twice or triple the amount on the south side. The environments and schools are segregated. This segregation is transferring poverty onto the next generation.

Impacts of globalisation on VAW and RAH

Globalisation has created an imbalance in development between rural and urban areas, and within urban areas between rich and poor communities. This has resulted in high levels of homelessness, evictions and other housing issues.

There have also been high rates of divorce (in 2001, statistics showed that for every 3 couples that got married, one couple got divorced). This is linked to the increasing poverty levels that have led to violence in the family (physical and emotional) and dismantling of the family, which have most affected women and children.

There has been an increase in the sex industry and prostitution, particularly of juveniles and minors. 4.1% of the national GDP in 2003 was earned from the sex industry. The factors for this include increasing supply of women, e.g., girl children from divorced, poor or domestic violence families become street children and are seduced by pimps. Due to the economic constraints, the government is eager to take revenue from whatever sources it can.

Increasing poverty is also resulting in people living in lower quality housing. 3,030,000 families (3.7% of total households) are living in housing that doesn't meet the minimum standards. In the context of Korea, this is an enormous proportion. As members of an already capitalised society, the setback to poverty is difficult for many people to adjust to, resulting in perceptions of themselves as losers and failures. This has been linked to increasing levels of crime, prostitution, VAW, family collapse, suicide and murder cases.

The social stratification and increasing social conflicts have led to greater insecurity in society. There is also a lack of mediation, arbitration and negotiation systems to address these conflicts.

Alternatives taken by women's movements

1. Campaign for unemployed, mother-headed households (1998-99)

After the IMF crisis in Korea, the government policy only focused on unemployed men. The government even asked mothers and children to cheer up unemployed fathers, many of whom were at the time angry and violent. This revitalised patriarchal notions of men being the head of the family and bread winner of the family, as well as adding additional burdens of care on women and children, and exposing them to risks of violence. Further, there was no recognition of support for mother-headed households. Korean Women's Associations United (KWAU) started a campaign to change the government's policy. The campaign called for:

- allocation of budget for laid-off and unemployed mothers;
- distribution of food and fuel to survive during winter time; and
- media attention on mother-headed poor families, to change public awareness

2. Shelters for prostitutes living in eviction planned brothel areas (2003)

There is a Seoul City Reconstruction plan for 2003 that affects a famous brothel area. Approximately 1000 prostitutes will be evicted. They have nowhere to go unless they continue prostitution. Women's groups have become involved and are demanding alternative housing and employment opportunities for the women who will be evicted from the brothels, as well as budget allocations for a shelter and a one-stop service centre to provide support and counselling. The aim is to rehabilitate the women out of

the brothel and out of prostitution. It is a public campaign, using media and lobbying strategies. Seoul City has agreed to allocate money for alternative housing, but this needs to be monitored.

3. *Shelter Rebuilding Project, funded by the Lottery (2003)*

Lotteries have become increasingly popular in Korea, particularly among the poor, as poverty levels have increased. Women’s groups advocated for the redistribution of lottery profits into programmes for the poor. \$3 million was allocated for women victims of VAW, which is currently being distributed by KWAU.

4. *Gender budget campaign*

Women’s groups are conducting research on sex dis-aggregated statistics related to the budget, which also consider women’s needs for RAH and VAW.

5. *Participation in General Elections*

The aim is to create a more gender-responsive government. The campaign involves developing women’s networks to support the participation of women in the election process and campaigning for the change of electoral laws to guarantee a quota system for women representatives.

Strategies for interlinking RAH and VAW in Korea

1. Redefining adequacy of housing in the context of VAW

Target Group/Duty Holder		Action Needed
Government	Ministry of Gender Equality Ministry of Construction Human Rights Commission	Monitoring of questionnaire by SRAH Analyse government budget & reallocation
Civil society	Urban Poor Coalition Women’s Groups	Conference Using housing tool kit Training Research Invite Special Rapporteurs Shadow reports for treaty monitoring bodies
Media	KBS, MBC, newsgroups	Programmes, articles, interviews

2. Campaign for the enactment of the basic standard for housing in the context of RAH and VAW, identified within the international human rights framework:

- Using the UN system and housing tool kit;
- Call for the removal of reservations to international treaties;
- Building consensus among civil society groups about adequate housing (including redesigning the new ‘basic standards’ to address VAW issues);
- Prioritising housing and VAW issues in society;
- Monitoring government’s implementation and enactment procedures of the Act;

- Research women's needs on RAH and VAW – including sex dis-aggregated statistics.

3. Gender Budget Campaign

Forced Evictions and Globalisation

By Emelita Salamanca of Grassroots Women's Empowerment Center, Philippines:

The Philippine Context

The Philippines has 7,100 islands covering an area of 299,000 square kilometres. It has an estimated population of 80 million people. The capital of the Philippines is Manila. The main languages are Tagalog and English. The predominant religion is Roman Catholicism. Some Filipinos say it is a poor country trying to be rich.

The Grassroots Women's Empowerment Center, Inc. (GWEC) as an NGO

GWEC aims to contribute to the empowerment of women by creating bonds between disadvantaged and professional women in urban poor communities through important support structures for awareness-raising regarding women's role in society. These bonds recognise the fact that Filipina women, like their sisters all over the world, share essentially the same burden - the legacy of structures of inequality which are reinforced by misperceptions that produce a seemingly unending cycle that retards women's development.

Programs and Services

Gender and Development Advocacy Program (GAD)

GAD addresses the need to increase the level of awareness and skills on Gender and Development issues among partner women's organisations, advocates and other sectors in its service areas. Trainings offered are:

- Gender sensitivity training and mainstreaming
- Special gender-sensitivity training for mail advocates
- Voters' education with gender perspective with the aim of advancing women's participation in local governance

Housing Rights Advocacy Program (HRA)

The program provides information to promote the active participation of women and men in affected communities in the process of proposing solutions to their housing, humane resettlement and land-tenure problems.

Family and Children Program

This program aims to contribute to the promotion of family relationships based on mutual respect, responsibility, caring and equality among members of the family. The program taps local, national and international resources to provide schooling materials for poor children.

Health, Nutrition and Environmental Protection Program

Aims to contribute in the improvement of the overall health status of women and their families by increasing access to quality basic integral health care services and information on environmental protection.

Economic Empowerment Program

The program provides skills training, administrative assistance and “seed capital” to local women’s organisations/groups interested in initiating livelihood projects.

Impact of globalisation on women in the Philippine context

The Philippines government first expressed its commitment to the uplift of women in the mid-seventies. At that time, it responded to the United Nations’ declaration of International Women’s Year (1975) and the Decade of Women (1976-1985) with the creation of the National Commission on the Role of Filipino Women (NCRFW). In 1986, President Corazon C. Aquino (the first woman president) issued Executive Order No. 348, formally approving and adopting the Philippine Development Plan for Women (PDPW) as a companion document to the Medium Term Philippine Development Plan. The PDPW provides a framework for the development of women in the personal, family, economic, political, social, socio-cultural and other legal spheres. A “successor plan” for the PDPW, called the “Long-Term Plan for Gender-Responsive Development”, has since been formulated and will cover the period up to 2025.

In December 11, 1991, Republic Act 7192, a landmark law for women, was passed by Congress and approved by the President of the Philippines. RA 7192, known as the Women in Development and Nation Building Act, can be considered a result of the lobbying done by women’s groups inside and outside government, with the sympathetic support of gender-sensitive legislators. RA 7192 specifies that a substantial portion of funds received through official development assistance packages is set aside by government agencies to support activities for women. The implementing rules state that in 1993, at least five percent of these funds shall be utilised in “support of programs/projects that mainstream/include gender concerns in development.” The percentage shall increase from five to 10-30 in subsequent years. The Act also enjoins all departments to ensure that Filipino women benefit equally and participate directly in their programs and projects. To ensure the implementation of its provisions, RA 7192 further directs the bureaucracy to “review and revise all their regulations, circulars, issuance and procedures to remove gender bias therein.”

The Philippines has an array of strong national laws to protect the human rights of its people. However, the implementation of these international obligations and national laws is poor. Instead of protecting the interest of the majority of the people, the government has staunchly supported globalisation and the WTO. The government’s apparent readiness to give up control of economic sectors in the name of globalisation suggests that the Philippines will be offering its services wholesale at the GATS negotiations. This is utterly unfortunate for Filipinos whose livelihoods and right to basic services are jeopardised by the overall goal of the government to establish a market-oriented policy regime and promote “global competitiveness”.

Instead of the vaunted economic progress, the consequences of opening up the Philippines to foreign corporate power have included rising unemployment due to marginalisation of domestic enterprises, widespread poverty, inflation and general deterioration of the economy.

The Strategies for Development

The Growth Centre Strategy

This governmental strategy involves the consolidation of regions whose economic activities are intertwined. It aims to strengthen major cities, like Metro Cebu and Metro Davao and identify other possible growth centres, opening Philippine resources to the exploitation of foreign investors and traders to spill “growth” over rural hinterlands.

Part of the growth strategy is the plan to revive the railways in the northern and southern part of Luzon. The introduction of this rail service is intended to accelerate the development of Central, Northern and Southern Luzon. The Northrail Project will provide easy access to Central and Northern Luzon’s new economic growth areas, improving the interconnection of major transportation facilities in the Manila-Clark-Subic economic triangle (called the Buffer Triangle), namely the airports and seaports of Metro Manila, the airport of Clark, and the airport and seaports of Subic. The Northrail is funded by the Export-Import Bank of China with a \$3.5B loan request from the Philippine government. The Southrail Project has secured a \$12.5B loan from the South Korean government. An estimated 200,000 poor families, including children, elderly, women, farmers and workers, are threatened with eviction in the implementation of governmental infrastructure projects.

GWEC’s Response

Presently, GWEC is engaged in a tactical housing rights campaign and pressuring the government for the evolution of popular solution to the housing and land-tenure problems facing the urban poor in Caloocan City. This campaign also aims to educate the people providing an initial grasp of informational knowledge on basic human rights, international human rights covenants and constitutional mandates on housing rights. In the City where GWEC is operating, an estimated 5,000 families in 22 barangays (smallest political units) stand to be evicted after the May 2004 elections. Several government agencies are involved in this project, yet, at the time of this writing, there exist no definite relocation guarantees for these people.

As a form of suppression, the government has inhibited the recent registration of new voters. The Commission on Elections has denied the registration of new voters for the May 2004 elections on the grounds that they are residing near the danger zones and/or they are “squatters” and no definite address.

GWEC request that the SRAH visit the Philippines and raise the issue of mass evictions to the Philippine government in order to avert the mass dislocation of poor families.

The Privatisation of Social Services Strategy that the government has embarked upon is a matter of grave concern as it relates to the RAH.

Food Security Program of the government

The Arroyo government’s food-securing program is based on the implementation of the Agriculture and Fisheries Modernisation Agreement (AFMA). This program translates into the globalisation of local agriculture. It aims to attract private investments, both local and

foreign, in export crops and plantations. AFMA also encourages the entry of cheap agricultural imports into the domestic market. It promotes the privatisation of infrastructure such as the irrigation and post-harvest facilities. Also, in line with AFMA, the Arroyo government is pushing for the privatisation of the National Food Authority (NFA).

Housing Program for the Poor

In her State of the Nation Address, President Arroyo reported that she has provided more than 100,000 housing units for the urban poor and provided almost 200,000 housing units for the workers. However, governmental housing performance is actually on the decline. From July 2001 to July 2002, socialised housing for the poor reached more than 83,000 units. This means that from July 2002 to July 2003, government provided only around 17,000 socialised housing units. This translates to an almost 80% decline in the provision of socialised housing over a one-year period. The housing program for the poor of the government is in trouble for its heavy reliance on private investment. Economic housing units cost between Php 151,000 to Php 375,000. Socialised housing units meanwhile cost below Php 154,000.

Health Program

The government has the legal responsibility to provide for the health of every Filipino. The 1987 Constitution explicitly states that government must “adopt an integrated and comprehensive approach to health and development which shall endeavour to make essential goods, health and other social services available to all people at affordable costs.” Unfortunately, it seems government has defaulted on this responsibility. Budget allocations for health are falling, with allocations in the 2003 national budget accounting for only 2% of the total. This has resulted in a decline in government subsidies for health, making services inaccessible to the poor. In answer to the problem plaguing the health sector, the Department of Health is implementing reforms through its Health Sector Reform Agenda.

The health care provision in the country is highly dominated by the private sector, which constitute 64% of the total number of hospitals in the country.

The cost of hospital care is equivalent to three times the monthly income of an average worker while prices of medicines are 18 times more expensive than in India and Canada (minimum wage is pegged to Php 285/day). The budget allocation for health services has been in continuous decline for the past years. The budget allocation for health services is only 2% of the total National Budget (2003) of Php 804.2B. Alongside budget cuts, the government is taking the path of corporations to make government-owned hospitals financially and fiscally independent. Through this scheme, hospitals are made to earn their own money for operations and maintenance by imposing the increasing various hospital fees. As a result, majority of Filipinos cannot afford to seek medical help even in public hospitals due to dire poverty.

The National Budget of 2003 is reflective of the government priorities versus debt servicing

Item	Amount	Share
Debt Servicing (interest)	Php 223.2B	28%
Education	129.9	16%
Defense	40.7	5%
Health	14.0	2%
Housing and community development	1.7	0.2%

The Impact of Globalisation on Women

Globalisation attacks women on two fronts. Firstly, globalisation has resulted in deepening poverty, widespread bankruptcy of local firms, increasing job scarcity, worsening landlessness and homelessness and deteriorating living conditions. Secondly, it takes advantage of the already oppressed women for the maximum realisation of profits for businesses. This two-pronged impact on women by globalisation regimes places enormous pressure on affected women to operate as familial and social 'coping mechanisms'.

On landlessness/homelessness

"While lack of access to stable and secure housing adversely affects all, women bear the brunt of housing and poverty discrimination. Women are also disproportionately affected by the often violent practice of forced eviction. Overburdened with triple shifts of caring for children, managing households and generating income, women rely heavily on proper and secure housing for their economic and personal well-being. Lack of security in the area of housing and land deprives their economic autonomy, physical safety and personal dignity, and serves to marginalise women by contributing to the feminisation of poverty and women's continued social subjugation." (COHRE Fact Sheet on Women's Rights to Adequate Housing, Land and Property)

On deepening poverty and widespread bankruptcy of local firms, increasing job scarcity

Women, particularly in the Third World, are described as "coping mechanisms", or the "major adjustment factor" for families in the midst of poverty and crisis. For instance, as more and more farmers and workers are displaced from farms and factories, or as the cost of living continues to increase while job opportunities decline and wages stagnate, many housewives must engage in additional labour outside of the home. While they may be employed in devalued and feminised sectors, working as pressers or laundry women, their daughters, most of whom have not even finished high school, enter into vulnerable situations as domestic helpers, entertainers (local and abroad), so that their families can make ends meet. The socially constructed nature of these labour markets greatly increases vulnerability to abuse. Under globalisation, poor women face discrimination and exploitation not only because of their colour/nationality but also because of the interplay between these factors and processes of gender.

Meanwhile, women workers who engage in industrial production often work at low-paying and deskilled jobs under harsh conditions in export-oriented sectors, which not only take advantage of their supposed 'natural' attributes but also exploit their perceived docility.

- With increasing poverty, joblessness and homelessness under globalisation, women are not only carrying the poverty of their families but of the poverty of entire societies.

See table on following page.

Victims

Women and children, urban poor, mothers, single parents, workers, farmers, the 200,000 people living in danger zones (along the railways right-of-way, creek/esteros/rivers easements)

Duty Holders

The State is the primary duty holder. Other duty holders include foreign businesses, local government units and authorities and civil society.

Interventions

- Social mobilisation
- Gender sensitivity training and mainstreaming
- Orientation on the RAH
- Paralegal
- Psycho-social interventions
- Networking
 - Media
 - Lawyers
 - Civil society - NGOs, people's organisations, etc.
- Solidarity - nationally and internationally
- Lobbying with concerned agencies
- Dialogue
- Disaster preparedness service (to increase capacity, decrease vulnerability)
- Tactical campaign on RAH

Entitlement	Source	Overriding principles	Guarantees	Threats & obstacles
Security of tenure	- International customary law	- Self-determination - Non-discrimination - Rule of law - Non-retrogression - Gender equality	- UDHR - ICESCR - ICCPR - CEDAW - CRC - BPFA - Habitat II Agenda PoA - CHR - Reso.2003/22 (women's equal ownership of land) - CSW Reso. 42/1 (human rights and land rights discrimination) - UN Habitat governing council Reso. (women's role and rights in settlement and slum upgrading) - Constitution-Declaration of Principles on State Policies; Article II, Sec.9; Article XIII, Sec.9-10 - Article II State Policies, Sec 14 "recognises the role of women in nation building, and shall ensure the fundamental equality before the law of women and men." - New Civil Code, Article 537 - Urban Development and Housing Act/RA 7279 - Exec. Order 348 (Development plan for women, 2000-2025; focus on women's role in shelter and urban development)	- Government support of globalisation and WTO - Government-sacrificed control of economic sectors for globalisation - Attempts to amend constitution have marred government administrations - Possible entry into GATS negotiations - Policy of privatisation, as supported by WB, IMF, WTO - Manita-Calabarzon Express-South Rail Project - Lack of information on equality laws re housing programs - Legal forms have not been revised to reflect that women can transact independently of their husband.
Access to public goods and services				
Access to land, water, environmental goods and services	- Human rights and other treaty law - Regional human rights instruments - Emerging norms			

Recommendations

Providing housing and other services to women is not sufficient – there is a further need to sensitise duty holders at all levels on gender issues and women’s rights.

Women in the Asia-Pacific Region must organise themselves and work together to protect their rights. This is the only way to ensure their safety.

SRAH to visit the Philippines to help prevent the railroad evictions scheduled after the May 2004 elections.

Keynote Speech: The Correlation between Violence against Women and Women's Right to Adequate Housing: Perspectives from Afghanistan

by Dr. Sima Samar of Human Rights Commission, Afghanistan

Thank you for the opportunity to speak about the relationship between women's right to housing and violence against women. Today I will talk about these issues in the context of Afghanistan, where we are in a situation where lack of housing, violence against women, and patriarchal society are part of everyday life. I hope that our experience in Afghanistan can add to this discussion.

In Afghanistan, 23 years of war has resulted in destruction, homelessness, and a culture of violence and lawlessness that have been very harmful to women. Women and children suffered most in the war. They were deprived of their right to be free from violence, their right to housing, and their right to economic opportunity - their human dignity was ignored. In situations where security is absent, women are often the primary victims of violence and aggression from all sides. This was the case in Afghanistan. For more than two decades, all sides trampled the rights of Afghan women. Physical violence against women and children became a routine extension of the battlefield tactics. Men victimised women even further under the claim of upholding Afghan culture and traditions and observing Islamic values. Although none of the warring sides respected the human rights of women, the actions of Taliban were the most extreme.

While the situation in Afghanistan today is better than under the Taliban, it is still very difficult and unfortunately some of the Taliban's mentality towards women has now been absorbed by the society. This condition is made worse because there is no security in the country and very little reconstruction. With international peace keeping forces still limited only to Kabul, the fighting continues in other areas. So we are hoping the ISAF will be extended to other parts of the country. Women and girls are victims of horrible human rights violations, aid workers are being killed, more than 30 girls' schools have been violently attacked and burnt and in some areas of the country relief can no longer be delivered. There also have not been enough resources for reconstruction. Although we have more than 1600 NGO's in the country, there are not enough houses, schools, hospitals, or clinics being built, and the quality of the ones that exist is not very good because of the long war in the country.

The Special Rapporteur's definition of right to adequate housing is "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." Adequate housing includes legal security; access to public services; access to water; affordability; habitability; and freedom from dispossession, damage and destruction among other issues.

Peace in my understanding is more than an absence of war. Peace is the vision of the world without violence; peace is the hope after violent experiences, be it our own experience or be it linked with a family's history of being victims or criminals; peace is trust; and peace is confidence that an individual can contribute to stop violence and inequity.

Women's rights are human rights: this means the right of human dignity and freedom; the dignity of a woman means the respect for her needs and fears. Peace and human dignity are human security.

Human security is personal security. For women this can mean having the opportunity to be responsible for her own life; not being discriminated against for being born a woman; not being repressed through political or patriarchal cultures; not having forced marriages, rape and torture; not being a strategic target of military in times of war.

Human security is political security which is a basic human right and freedom. For women this means participation in all peace negotiations, it means social justice and the right to education and the right to vote, it means equality of women and men.

Human security is health security. For women this means access to health programs and reproductive health services; it means protection against gender-specific violence.

Human security means economic security. For women this can mean access to food, standard shelter, credit and social security. Most of the women in our country do not live in peace and their human dignity is not respected.

In Afghanistan, we are in a situation where most people do not have access to housing that meets the requirements of adequate housing. Millions of people were forced to flee their homes during the fighting and they were either displaced internally or fled the country. Even after the fall of the Taliban regime two years ago, there are still 220,000 internally displaced persons. With the return of refugees, Kabul's population has doubled in past two years. There are now two million people in Kabul. At least half of these people do not have adequate housing. Many live in the ruins or tents without electricity, water, or sanitation. There are millions more refugees who have not returned because of the lack of security, land, jobs or anything to return to. Most of these refugees are women and children.

The rights to housing, non-discrimination, and freedom from gender-based violence are guaranteed in many international treaties and agreements. These are not new issues. However, these issues have gotten worse in the context of fundamentalism. We in Afghanistan are relying on these international human rights and women's rights standards as we develop our laws, constitution, to hold our new government accountable. Housing and violence against women are basic issues that we have to deal with as we rebuild our country and enforce human rights.

This paper describes the major areas in which women's experience of violence is related to housing. I want to talk about some of these areas and add some additional issues from our experience.

First, forced evictions are a very big problem in Afghanistan. Many of you may have heard about the recent incident in Kabul, in which the Mayor of Kabul and the chief of police removed 20 families from the houses in which they had lived for 20- 25 years in order to build luxury houses. The Kabul police chief brought people to pull down these houses in Shirpor, which is an area located near an exclusive part of the city. Two hundred and fifty people lost their houses and most were women and children. The government bulldozed the houses of these people with all of their belongings and injured some of the residents

who were in the houses when the destruction began. Witnesses saw people – including women – being beaten as they were removed from the houses. The excuses that officials gave for removing these people from their homes were horrible. They said that “this was land for the rich and not the poor” and that “poor people are not capable of building good houses”.

The Afghan Independent Human Rights Commission protested these evictions, along with the UN Special Rapporteur, Miloon Kothari. We tried to stop the destruction. We publicised what has happened. We held a press conference where we named some cabinet members, military and civilian senior officials who were allotted the plots of land. About 300 officials received plots of land, including all but 5 of the cabinet members. As a result of our actions, President Karzai was forced to set up a special commission to investigate the situation. The Kabul police chief was fired and the people who were displaced were given another place to build houses. The issue of land-grabbing has been in the media in Afghanistan almost every day and our actions have won lots of public support. If we had not intervened, no attention would have been given to the issue. We hope our public action will make this kind of human rights violation less likely to happen in the future.

Second, for women refugees, repatriation is another time when they may face violence and be deprived of their rights and property. One of the most frequent kinds of complaints of human rights violations that our Commission has received are related to private property such as the loss of land and houses. Often refugees return to find their houses taken over by military commanders who refuse to leave. For those women who own land, when they return they are often denied access to their land by traditional leaders and even the judicial system. Women cannot appeal by themselves, but must rely on male relatives. In addition, the majority of women returnees have no land or houses to return to which makes them very vulnerable.

Third, some of the patriarchal culture issues include women being denied land, inheritance rights, property rights, and women being thrown out of their homes if the husband dies or divorce occurs. But there is an additional cultural practice that also makes it very hard for women to escape violence and to exercise their right to housing and other liberties. One of the major issues related to both violence against women and women’s rights to housing is the cultural prohibitions in our society against women living alone or living without men. Due to this women are unable to leave situations where they are facing violence from husbands or other family members. The prohibition against women living independently goes against most of the human rights principles, which are part of the right to housing, such as self-determination, non-discrimination, and gender equality.

Few options are available to women. With so many war widows in our country there are many families headed by women who have simply no place to go. Under society’s restrictions they are forced to remarry or live with male relatives even though many do not want to live in these situations.

Women who run away because of bad situations are usually detained and prosecuted. If they leave and are caught they are often sent to jail or risk being killed by their families. When women are kept in detention or jails by local authorities, they are often sexually

abused. Even if the women are not caught, they really have nowhere to go and are at risk of abuse.

In Kabul, some NGOs have started providing women's shelters for women who are facing violence or are at risk of violence. The shelters also provide job training, literacy, health care as well as food, shelter, and community. But these are not easy projects because women's opportunities are so limited. Some, who are interested, can be placed in training programmes and jobs; for others, there is no other option but marriage since women cannot live on their own. Outside of Kabul there are not even any shelters for women.

Fourth, forced marriages are another violation of women's rights that also costs them their homes and physical insecurity. Forced marriages by commanders to obtain land inherited by women are common in Afghanistan. Some women have had to flee the country or go into hiding to avoid being kidnapped and forced to marry military commanders. Under the Taliban and also today, women are routinely taken from their homes for forced marriages that are imposed on them against their will. Often these are underage marriages as well, with girls as young as 8 being forced to marry old men. The Afghan Independent Human Rights Commission has intervened in some of these cases. The women and girls are often given as compensation to cover any guilt of the male family member. For example if a brother kills someone, the family can pay compensation (a girl and money) instead of letting the brother be killed.

Fifth, globalisation favors leaving some areas of the world undeveloped with a subsistence economy so cheap and dependent labor forces can be accessed. The lack of development in Afghanistan is a major issue. In Afghanistan both reconstruction and construction are needed because in addition to the devastation caused by the war, large parts of the country had never seen any development before the war. There is an urgent need for houses, schools and other basic social services.

The economic situation in the country is still very bad. Reconstruction in Afghanistan would be a major way to address housing needs for both women and men and to make women less vulnerable to violence. With reconstruction, there is the possibility of jobs, income and places to live. But without it, there is no incentive for men to put down their arms and the violent culture will continue with women as the victims. Despite all of the promises, much reconstruction has not been done.

One of the outcomes of the influx of NGOs, governments, and UN agencies is that housing prices have risen very high. The rental and purchase costs of houses in Kabul are now close to what they are in cities in the United States. In Kabul, there really is no affordable housing and no funds for building any. Interestingly, in the U.S.'s plans for Iraq's reconstruction, money is devoted to housing construction, electrical systems, and water and sanitation, but there is little or no money given for these things in Afghanistan.

People are really beginning to lose hope because there is so little rebuilding going on. In West Kabul, for example, the majority of the buildings in the area are bombed out, shattered, and riddled with bullet holes. Nothing has been done to improve the area since the civil war destroyed it in the early 1990s.

Other than shopkeepers and some people trying to repair their own stores and houses that are located amidst this devastation, there are not many reconstruction projects going on. Instead, people are living among the ruins without sanitation and electricity because they have nowhere else to go. Also, the women in this part of the city have no access to a maternity hospital.

Another problem is that what little development there is has not been distributed evenly. Grants for programs or construction are being largely awarded to those ethnic groups in power, and there are areas of the country where the powerless receive few resources.

Sixth, the effects of armed conflict on women and housing are seen very clearly in Afghanistan. I have already mentioned some of these issues. One very upsetting example is in Bamyan in Central Afghanistan. In Bamyan, the Taliban massacred hundreds of men and destroyed nearly all of the houses and market because it is a Hazara area. Women and their families were forced to live in caves because there really were no buildings. We have begun construction of houses for these families. These houses will be built in a way that allows the women to share the work and resources. The houses will also have access to health care facilities and educational programs that we run.

The Afghan Independent Human Rights Commission recently released a report about the forced displacement of civilians by commanders, which is still continuing in factional fighting. Women are displaced and often face sexual violence. In Afghanistan, there were some horrible cases recently where women ran into a river and drowned as they were trying to escape being raped by military commanders.

Finally, there is an absence of law and order. The rule of law is the rule of the gun. The rule of law is one of the main principles of the right to housing. There is an obligation on the State to prevent, investigate, and punish violence against women and there is an obligation to follow the treaties and enforce the right to housing. But this is not possible without the rule of law. In some countries, the problem is the gap between law and reality. But in Afghanistan the problem is that there really is no law. Advances will not be made and human rights violations will continue if security is not restored, laws are not created, real construction does not begin, the judiciary system, police, national army are not formed, and weapons are not collected.

So far in our country there is very little rule of law when it comes to housing or violence against women issues. Without laws, women are very disadvantaged because patriarchal traditions are the grounds for making all decisions. Decisions are made by male elders, mullahs, and male family members. We are trying to subject these practices to the rule of law.

In conclusion, there is a lot of work to be done on these issues in Afghanistan and everywhere. But I do believe that there are things we can do.

1) In addition to actual armed conflict, there is the larger issue of overall security in Afghanistan. It is impossible to address the issues of violence against women or the right to housing without improving the security in the country. One of the main reason advances for women's rights in our country are so fragile and why opponents of women's rights still

have such power is the lack of security. We really need help from the international community to support us and to send more troops to different parts of the country that can start DDR programs with the armed groups.

2) We can expose atrocities such as what happened recently in Kabul. There is of course some risk to those who confront the ones with power and money. But by bringing the issue to the public, we can also build public awareness and support. Public awareness is a very big factor, and resources are needed to educate women about what rights they have and how they can be enforced.

3) Housing and development plans that take into account the needs of women and affordable housing must be part of these plans. Community housing, including shelters for women, are good for protection against violence. They also break the isolation many women face and create opportunities for income generation and education. Development also must put health care and schools close to housing areas. These kinds of programs work best if they can be controlled by women, which is a reason more funding must go to women-led NGOs.

4) We should work hard for better constitutions, better laws, judicial reform and for the equal rights of men and women in the country. In Afghanistan, we must fight for the rule of law itself if any gains for women are to be realized. However, neither development nor rule of law and legal change are possible without security.

5) Finally our governments have the obligation to abide by the conventions and international treaties ratified by Afghanistan and to implement them as law in the country.

All women and people who believe in peace and social justice should join together to try to end the violence against women.

I know that you join me in hoping for a future of peace, justice, equality, and non-violent culture in Afghanistan and in all of our countries so that women can have physical and economic security and be free from violence. Thank you.



HLRN RIGHT TO HEALTH MONITORING TOOL KIT

Entitlement [concept defined]	Source	Overriding principles	Guarantee	Threats, barriers, obstacles	Victimisation /vulnerability	Impact, consequences	Duty holder	Action, intervention (what, whom, when)
Availability	International customary law	Self-determination:	Ratification of international and regional human rights instruments	No law	Who? Rights holders: Vulnerable and affected groups	(methodology for quantifying losses?)	Responsible parties:	(See Strategic Action & Solution Menu of > 100 options with subtools)
Acceptability	Human rights & other treaty law	Nondiscrimination	Constitution, national legislation, regulations, municipal ordinance.	Bad law	What type?	Material (victims):	Primary: State authorities	Human rights education:
Accessibility		Gender & age equality	Politics	Inadequate enforcement	Why?	Nonmaterial (victims):	Secondary: IFIs	Gender training:
Adaptability		Rule of law	Education/development strategy/program	Globalisation pressures		Material (others):	MNCs	Legal education:
Maternal/reproductive			Institutions	Privatisation of services		Nonmaterial (others):	Local authorities	Social mobilization
Social services			Budgets	Armed conflict			Private agents	Legal action
Information				Natural disaster			Community	Cooperation with UN bodies
Participation				Discrimination			Social practice	Media work
Sexual (health) & reproductive freedom	(Regional human rights instruments?)			Blockade				Etc.
Safe environment				Lack of resources				
Freedom from nonconsensual treatment/experimentation								
Security								
Freedom of expression								
Access to safe (potable) water								
Safe work conditions/environment								
Preventive treatment								
Conducive living conditions								
Family								

Human rights and freedoms congruent with the human right to highest attainable state of physical and mental health:

-  **Right to life**
-  **Right to food**
-  **Right to work**
-  **Right to culture**
-  **Right to livelihood**
-  **Right to information**
-  **Right to participation**
-  **Right to development**
-  **Freedom of movement**
-  **Freedom of expression**
-  **Right to self-determination**
-  **Rights to a safe environment**
-  **Right to privacy and family life**
-  **Right to public goods and services**
-  **Right to an adequate standard of living**
-  **Right to gender equality/women's rights**
-  **Right to just and favorable conditions of work**
-  **Freedom from torture, cruel and inhuman treatment**



Elements of the human right to health*

1.	<i>Availability (quantity)</i>
2.	<i>Acceptability (administratively/economically/physically)</i>
3.	<i>Accessibility (quality)</i>
4.	<i>Adaptability</i>
5.	Maternal/reproductive
6.	Social services (goods/facilities)
7.	Information (& education)
8.	Participation
9.	Sexual (health) and reproductive freedom
10.	Safe environment (sanitation)
11.	Security (physical)
12.	Self-expression
13.	Access to safe (potable) water
14.	Safe work conditions/environment
15.	Preventive treatment
16.	Conducive living conditions (food/clothing/housing)
17.	Family
18.	Nondiscrimination
19.	Gender equality
20.	Rule of law
21.	Self-determination

* CESCR General Comment No. 14



HLRN RIGHT TO EDUCATION MONITORING TOOL KIT



Entitlement [concept defined]	Source	Overriding principles	Guarantee	Threats, barriers, obstacles	Victimization/vulnerability	Impact, consequences	Duty holder	Action, intervention (what, by whom & when)
<i>Elementary:</i> Universal, mandatory and free <i>Elementary, secondary & higher:</i> Availability (quantity) Accessibility (administratively, economically, physically) Acceptability (quality) Adaptability Achieving full and productive employment Information Participation Safe environment Security (physical) Freedom of expression Conducive living conditions Family	<i>International customary law</i> <i>Human rights & other treaty law</i> <i>(Regional human rights instruments?)</i>	<i>Self-determination:</i> <i>Nondiscrimination</i> <i>Gender equality</i> <i>Rule of law</i>	<i>Ratification of international and regional human rights instruments</i> <i>Constitution, national legislation, regulations, municipal ordinance</i> <i>Policies</i> <i>Educational development strategy/program</i> <i>Institutions</i> <i>Budgets</i>	No law Bad law Inadequate enforcement Globalisation pressures Privatisation of services Armed conflict Natural disaster Discrimination Blockade Lack of resources	<i>Who?</i> Rights holders: Vulnerable and affected groups <i>What type?</i> <i>Why?</i>	<i>(methodology for quantifying losses?)</i> <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>Secondary:</i> IFIs MNCs Local authorities Private agents Community Social practice	<i>(See Strategic Action & Solution Menu of > 100 options with subtools)</i> <i>Human rights education:</i> <i>Gender training:</i> <i>Legal education:</i> Social mobilization Legal action Cooperation with UN bodies Media work Etc.

Human rights and freedoms congruent with the human right to education:

-  **Right to health**
-  **Right to culture**
-  **Right to livelihood**
-  **Right to information**
-  **Right to participation**
-  **Right to development**
-  **Freedom of movement**
-  **Freedom of expression**
-  **Right to self-determination**
-  **Right to an adequate standard of living**
-  **Right to gender equality/women's rights**
-  **Right to (just and favorable conditions of) work**



Elements of the human right to education*

1.	<i>Availability</i>
2.	<i>Acceptability</i>
3.	<i>Accessibility</i>
4.	<i>Adaptability</i>
5.	Free, universal & mandatory elementary education
6.	Achieving full and productive employment
7.	Information
8.	Participation
9.	Safe environment
10.	Security (physical)
11.	Freedom of expression
12.	Conducive living conditions (before/during/after)
13.	Family
14.	Nondiscrimination
15.	Gender equality
16.	Rule of law
17.	Self-determination

* CESCR General Comment Nos. 11 & 12

ANNEX F

INTERVIEWS

SELECTED EXCERPTS OF INTERVIEWS WITH PARTICIPANTS

Several participants were interviewed about their personal- or work-related experiences regarding the interlinkages between violence against women and women's right to adequate housing. The aim of the interviews was to provide supplementary perspectives on the work and experiences of women. Participants were asked to focus on examples of such human rights violations, legal mechanisms and past or possible strategies for action that could be used in their country to address these violations. Following are excerpts from some of the interviews.

Young Sook Cho, Korea Women's Associations United, South Korea

In [terms of] violence against women, [the] housing issue is not based in the protective level. It's the issue of after the violence happens, if the beaten wife needs shelter, in that case, shelter can be provided to the wives who want to go out of their own house. We have around 40 shelters supported by the government, and also there are lots of sexual violence shelters, but the thing is, there is no preventive procedure. If the violence is not prevented, if the case happens, then it starts. The housing issue as a whole is not specifically targeted to the victim of violence, the domestic or sexual violence. It is a general issue It needs to be reviewed and studied. To find out some important component or point, then we could do something. But the case that I am facing is a prostitution case. There is an illegal brothel in Korea. Prostitution as a whole is illegal in Korea.

So the prostitutes who live in the brothel in the specific areas [that are] supposed to be renovated, they could be provided [with] new shelter and programs to rehabilitate [them], too. That means they stop prostitution and they started to find new jobs. Before [they can] find that new job they need some cares and services, and medical treatment and physical treatment kinds of things, and mental treatment and psychological counseling and legal services are needed for prostitutes, because they are [often trapped by] all the pimps and criminal links. They need all the protection and services and counseling also. And, finally, they need to survive. Not in the prostitution and sex industry, but in a different industry and different areas of jobs. So those procedures, provided by the Seoul metropolitan city and some women's groups, are in charge of taking care of them now. [They are] setting a program and they already started a new shelter, and a one-stop service center, for the prostitutes in that specific area.

When you started the campaign regarding forced evictions of the prostitutes what national and international mechanisms did you rely on? Any with respect to housing?

Actually, because I am in charge of that work, those issues. To be frank, I am not aware [of] the housing rights issue. And I never linked with housing rights. But I think all evicted people need shelter and a place to live. So we all are aware that housing is important for the poor and those who don't have any money or property. Then naturally and automatically we are concerned that they need a house before they can survive themselves. So a kind of shelter is needed for them, it should be provided by the government. That is the basic principle of our work.

Can you say, especially after this workshop, how do you see housing violations as a contributor factor, if at all, to prostitution, or to women having to go into prostitution?

Basically most of the prostitutes in Korea came from poor families in urban and rural areas. That means it is closely related with the poverty issue. Poor people normally have no fixed space. Their house is very small and very unhygienic, and it is bad. That is why the urban poor especially, were stigmatised by society. The urban poor are the losers, they are [considered to be] failures. [In] Korea the schools are very competitive. So if the family is poor, the environmental conditions that they live in are poor. Automatically those areas are regarded as criminal areas. So the environment itself is bad for poor families. There is lots of crime, and that naturally . . . makes them [become] involved with some kinds of criminal cases. [It is] especially [hard on] the women and the girl-children because their parents do not have enough money for what they want to buy, for what they want do. So they want money. Society is already – well, Korea is a capitalist society. There is lots of advertisement and promotion about international brands, Nike [and similar] kinds of things. They all want to buy everything that is advertised, whether they have money or not. They tend to steal, [especially] girl-children, because there is no job for children. Under age 13 and below age 18 is [considered to be a] minor and is not provided [for] by society, because of the labour laws. That's why they start stealing. But they want money for themselves. They have needs. That's how the girl-child naturally thinks about prostitution.

Would you say that there is a lack of awareness among the women about relevant legislation?

It is getting improved now, because after the enactment of [the Sexual Violence Prevention Act and the Domestic Violence Prevention Act], the government has the responsibility to publicise that Act, and mostly the women's organisations campaigned a lot. So nowadays everybody almost understands that there is a domestic Violence Act and are aware that if husbands beat their wives, policeman would intervene, naturally. But thing is that [within] the power relationship between the husband and wife, the wife is weak economically. So if housewife doesn't want to report to the police then it is quite difficult to build a case. But women's organisations are now asking the police department [to make it] a natural intervention. Whether the housewives report to the police or not, if the neighbours report the case, then the police department should automatically intervene. That is what our issue is.

Whether the women report the case or not, the police should automatically intervene?

Yes, if the neighbours hear something and they tell the police the police department should naturally intervene.

Have the police undergone adequate training and sensitization?

Yeah, that is what we are also demanding to the government. There should be education and training for the police people. To [increase] understanding about women's violence case and sexual violence case. To [act] more efficiently. So there is education, but not enough. So I can say that nowadays, sexual violence and domestic violence, many people are aware [of them] already.

The question is not about space, a small space or more space. It is the issue of other types and other entities. If people look at, say, domestic violence and the inter-linkages between violence and the right to housing from this side, space or no space, then it would become a problem of understanding of: that women for example doesn't have to live in a big flat with many rooms, or just a one-room flat. Because she has lost her privacy. She has no privacy and she feels threatened. She has lost her own personal space, and she doesn't feel safe in the home. From this side, and from the other side, her home, her environment, her house is already the place of threat and fear. Doesn't matter if it's a big or small space, she already feels this space is unsafe for her and she has a fearful feeling inside her. Domestic violence is committed in households, within a family. So usually it is not visible, and you cannot actually see it. So the question like from Sri Lanka example, is there any linkage between the spaces? Because this inter-linkage is not easy to see in the case of domestic violence.

The reason it is difficult to see is because there is no physical evidence. For example, when we have a victim of forced eviction. They are treated like they are destroying a household and are on the streets. But in terms of domestic violence lots of women suffer within the household. But they have already lost their attachment. The protecting elements are not there, that is the reason why it is not visible. It is quite misleading, because if somebody is abused in the street, then they can go home, and the person can be protected from the enemy, or others. But if the person is already under threat and facing danger within the household, then it is a different issue.

There could be many examples. The perpetrator sometimes burns the house, or the co-habitant, not officially married, or partner tries to burn and destroy the house.

That is the strategy that the perpetrator uses, because the home and the house is the most important thing for the women. So the perpetrator threatens: I will burn your house, or I will destroy your property or something like that. This is the tool they use, and other tools, like to control the women, in order to make her listen to him and follow him.

The issue of housing and adequate housing not only to the women in normal condition, but victims of domestic violence, pregnant women have to deliver the baby in a hospital and come to the shelter house, so the baby is only a few days or weeks old, and is staying in a shelter house, without any proper provisions.

Is there any national legislation to protect women in the condition you just mentioned?

No.

In terms of advocacy of domestic violence issues . . . have you had more success with relying on international mechanisms or domestic mechanisms?

In terms of advocacy of domestic violence, it has been more successful to mobilise the people, officials working in the grassroots and civic workers working in the grassroots. If we unite the energy and force together, it seems to be more successful. It is more useful to

combine the two: international instruments with national instruments. For example, we have organised a meeting of social workers, police officials and family doctors working on the grassroots. Then they developed a kind of report for the government. Then those social workers submitted the report to the government and that was a kind of pressure to the government. So we use the state obligations in front of the CEDAW convention, so combining both of them is useful.

What would your assessment be of the awareness that women's groups have in Mongolia of the right to adequate housing and the international mechanisms available?

In terms of international instruments, of covenants and conventions, all the women's groups are aware of them. But in terms of right to adequate housing, not many of them are really aware of them. Only one NGO, called Center for Human Development, has some experience in providing and conducting activities for the right of adequate housing. Another thing I would like to add is that the state or the government doesn't really recognise its obligation even if they have ratified these conventions and covenants. Another strategy would be if we could put pressure on the government through these funding bodies, like World Bank, Asian Development Bank, etcetera. Then maybe they would have to do some things and work on this issue.

Ferdousi Akhter, Naripokkho, Bangladesh

In 1999, there was an eviction of sex-workers at a place called Narangardh--it is near Dhaka--and thousands of sex workers were evicted by the government because there was a political, may or may not be clash, or the lord of the land, those who own the land where the sex workers were living, they had a clash with them, those who were giving the money for living. Bargaining clash, and political also, and they were evicted and Naripokkho and other women's organisation protested against this incident.

Actually it was a political clash and also with the landlord. It concerned the land where they are living. They were giving money to those who controlled the place and the local musclemen. There was a clash between them, and the victims were the sex workers at that moment.

Then Naripokkho and other women's organisation, we protest. We protest because we are giving them regular money for hiring the houses, and also pay taxes, so it is their right to stay there. Without any notice, they are evicting the sex workers. And the government doesn't take any initiative. Then the women's organisations resist, but they are scattered here and there. There is burning of houses, and also committing rapes. This type of thing shouldn't happen. Then a group of women's organisations filed a writ petition in the high court. The high court said that the government should show cause. Why they are doing like this and why, without giving them any rehabilitation, they shouldn't do this. Then the writ was passed, and the government had to take measures to give shelter in a shelter home. But after housing them in shelter home, there was a lack of sanitation, lack of adequate housing in that shelter home, and again we protested. Then the government again said you should manage this situation Because you have no right to violate this. It is their right.

What sort of law did you file the writ petition under? What laws was it violating?

The Constitution. In our Constitution, men and women have the right to safe life, and security. All men are equal. This type of laws. Also CEDAW. Now there is a network of six or seven sex workers' organisations. Then the grouping. The sex workers organisation network is built up. Sixty-seven sex workers organisations, they are fighting together against any kind of violation, like for many types of advocacy, and education programs, HIV/AIDS awareness programs, and when they need any help, or consultation for a decision to approaching the policy level, then Naripokkho will support them.

Are there any other examples that you can think of? One last one that you would like to share?

Our organisation thought that we should make an entry point. Inheritance law is a vast law and it is complicated. If we enter there, [to counter] the Muslims and the local mullahs and their organisations, we will face a challenge.

Yes, so we thought that we should, because our society is also patriarchal, and almost everywhere, although the constitution provides that men and women are equal. And we have ratified CEDAW, but the situation is such that we think that we should make an entry point and then we thought about guardianship. Then we attach inheritance law to this. Because in the guardianship law, the men are the legal guardians and the mother is not. She is only the custodian. Whatever her position, whether she is financially self-sufficient or not, she never gets legal guardianship. But recently the government made a special circulation [stating] that every citizen should put her father's name and mother's name also. Earlier, there was no permission in the government documents to put the mother's name. Recently the government made a circulation that you can put your mother's name also. Mother's name and father's name.

In guardianship law, those men who are getting divorced or separated, though the law is like this, the father will get custodian, legal authority, of boys, up to seven years and the girls after 18 years or until they get married. But the situation is, in our society, the husband is always financially powerful. Also, for the patriarchal society, the woman never gets any support. Because everybody told her. It is a relation[ship], because those who have property, they say the relatives or anybody says how could you introduce in the society. Who is the father? The children. How could you survive? Because when a woman leaves the husband and her in-laws family, everybody hates her and tells her, "It is your fault. You should compromise with your husband. You should live with him and manage it, because you can't survive without him." In her family also, her father and mother will tell her, "You please make a compromise with your in-laws' family. Why do you do this? Because you should tolerate." The woman hears this type of talking. It really has a psychological impact on her and she thinks she has no place to go. Then she is compromised with her husband like this and they can take the son or daughter. But she also suffers from psychological violence. Because she thinks, "I give birth to my child, I carry the baby, I take the birth and I bear all of this. So why should I bear this burden?"

But as for the entry point, we think that in CEDAW men and women are equal and in our constitution men and women are equal. So . . . if the constitution has the provision and CEDAW has it, then why is not the guardianship law the same? Then we began to go with

the inheritance law. If the government thinks about equal guardianship, then we attack property inheritance law. As per the property inheritance law, the girl gets half the share that the boys get. Also the women, when they are divorced, then if she has child she gets 1/8th maybe and if she has no child, she gets, I am not sure, I forget the division.

Katevan Dadunashvili, Womens' Advising Center "Sakhli", Georgia

You see, Georgia is a post-Soviet country, and it was no problem before, housing. But after breaking with the Soviet Union many problems emerged. People must have money to buy a house or a flat. It is a problem for people who lost their jobs at the fall of the Soviet Union. It caused several forms of violations, and one of them is the domestic violation. Domestic violence has increased. The obstacle we consider is that this is a patriarchal country and men are the household heads, despite the fact that our Constitution and our law is almost perfect in saying that women have equal rights on the house and on property and on land and other kind of rights. Tradition holds that the domestic situation must stay a domestic area. Not to be shared with other people or other society. It is considered by society to be not good. Your problem is your own problem, and domestic violence is not considered a social problem.

One example, a 32-year-old woman is married for 13 years, she has children, and they need constant medical care because of their health problems, they also need special care at home. The woman is not working and her husband wants a divorce. She does not want it as it will deprive her of a living space. She has no place of her own, other than her husband's place. In addition, she will be deprived of material support provided by her husband, which is crucial for her and her children's survival. You see, she cannot count on alimony from her husband as he is hiding his real income. His official salary is \$32 and, respectively, alimony would be very low. His other income, from businesses unregistered, is higher. She must stay at home and put up with her husband and withstand the problems and the humiliating actions of her husband. Our experience is to help these women to overcome psychological problems. It is very important. This is because we are an NGO, and we could not help them with material money. We could only help them by giving them legal consultation and psychological consultation. It is good to them because they have a low self-esteem, and after psychological therapy, they feel better.

What prevents women from leaving their husbands?

It is their low financial level. Unemployment of women. It is tradition. You see there is a mentality that divorced women are not considered as married. It is a problem. There is a problem of housing. It is a big problem. Because if the owner is the husband, even if they purchase the house together, the main person is the man. He is the family. If the woman seeks a divorce, she may be without any housing. It is a great problem. It is the main problem.

Is there any legislation in Georgia with respect to houses? You said that with respect to the law it is very good, equality of men and women. Are there housing laws that address the right to housing?

Yes, it is addressed. Women and other members of the family can apply to take a share of the house. But after privatisation, after the Soviet Union, it is a problem. If the owner of the

house is the woman's mother-in-law or father-in-law, she cannot take a share, because it is her husband's family house. Especially when they are there.

There are many stories, sometimes they are success stories: they may get a house after divorce, or the husband may leave them the house after death. But sometimes they have not, especially if the family is poor they could not give the women a share, and you see the extreme case is that women with their children are on the street and they live in little boxes. We have such examples.

Emelita P. Salamanca, Grassroots Women's Empowerment Center, Inc., Philippines

The first to bear the brunt of poverty are the women and children, the vulnerable groups. Globalisation has affected women on two fronts: landlessness and homelessness. Because of the worsening economic conditions, women are forced to work. Not only in the Philippines, but to go abroad. They are vulnerable to violence. Many women in the Philippines, 80%, are domestic helpers here in Philippines and abroad. [They face the] violence of employers. [They have] no job so they are migrating. There are many migrant women workers in Japan. Many of them are in flesh trade. Women are forced to work in factories but it is stereotyped. So women end up in [the] garment industry. They are experts. Children are forced to work especially 15 to 16 year-old daughters are forced to work. Many many street children, especially girls, are exploited because of poverty. They are begging. In our analysis, it boils down to the priorities of the government We have different kinds of laws but the problem is the implementation of the law. The Philippines is very good at making laws.

Have you used international instruments?

Yes, of course We are doing basic rights orientation in all the areas. They know the land tenure, etcetera. The key elements they know but in vernacular. When COHRE visited us two years ago, we are asking for some assistance from some lawyers.

The basic plan is to organize the women. With unity you can pressure the government. We want this; you have to provide this. We are also networking with others concerned societies . . . Lots of women's' NGOs are supporting us. And COHRE from Minnesota and Geneva, they are writing to secretary of BILG and the Mayor and even the President.

And has it had any impact?

Well, I think it has because the secretary of housing was here, [and] he is having a dialogue with the people. [He is] the secretary of the BILG. The local government sent a representative to dialogue with us. It's small, small initiative but we are expecting that before the demolition, there will be a noisy, noisy [demolition]. We want to amplify the issue. Now we are having a fund-raising concert. Our plan for this [is that] we want information dissemination, locally and internationally [and] we want to amplify the issue. We want to get the support of all the people. We want them to know that the government is not responding at all. They are the duty holders.

What have been successful tools that you've seen women using?

One is gender-sensitivity training. My suggestion is to point out the gender bias manifestations. We are speaking of housing rights and [so] the women have to know the manifestation of gender bias so that she can relate it to housing rights. I am telling [them that] the marginalisation specifically [is related to] political rights. I know the economic right of every woman and [that] subordination is a political right issue. The other right is civil rights. That is what I was talking about yesterday; women need to know that. In our organising, women are all participants of gender-sensitivity issue. We discussed the background of the Filipino women's movement, gender division of labor. Our vision is a gender fair society. I think women are the leading force in social transformation. I am not looking for short term [projects].

Our basic approach is to listen and then to hear the women and then to challenge [the government]. Our vision is to have a social transformation. Only then will the women be empowered and liberated if we change the whole system. I think it's a very challenging profession.

You know in Philippines, the women are the breadwinners. In my report I wrote there that women in the Philippines, in the third world, are the breadwinners. I don't want the drunkard husband, the gambler to be controlling the money. Women are the ones consolidating the family.

The house is a place of women; it's the place where they nurture children. If the house is thrown away or they are evicted, they will be the first to bear the brunt of it. We believe that the women are the first to bear the brunt of poverty in a poor country. Many issues and concerns. Number one issue is housing.

Of course, the urban poor in our country do not have security of tenure.

Can women own property?

Well it is upheld by the law but the woman, before she can own property, has to have the consent of the husband. Its always joint property of husband and wife. It's called conjugal property and is always owned this way.

The bank is always asking for the consent of the husband.

Now, because of gender mainstreaming, they have changed some provisions of the law that women can acquire but in practice it is not happening.

It's different if you are an elite woman. You can exert your right, but for others, if you are poor, even if you are the breadwinner, you cannot. You are always subordinate to your husband.

When you see the government is not responding, what attempts have been made to contact them?

In our case, because of the problem of eviction, we have negotiated; the district representative is assisting us. He is always with us and also helped us in the railway eviction by organising all the people along the stretch of the railways. 22 barangays will be affected by the railway line.

A barangay is the smallest political unit. We have organized all the 22 barangays and it will be spearheaded by women. It is the women who are pushing. We want relocation and we want to talk to the secretary of housing and development council. We want basic services. He is the favorite of the President. We had a dialogue with him last July. It was nice because he asked the people what they wanted. The people are asking if there is a demolition. Is there a plan to push through modernisation and rehabilitation plan? Well, according to the secretary, yes. You will be demolished next year. As per our estimates, they will be demolished after the elections in 2004 on May 11. When we had the dialogue with the secretary, the people said we want in-city relocation. Sure, he said, you look for a site and the government will assist you. We hold to that promise. We look for a site and the national housing authority is willing to assist the people. We had a dialogue with the housing authority four weeks ago. They promised us because there is no problem in securing the land.

**Sri Wiyanti Eddyono, National Commission on Violence Against Women and Woman
Activist Urban Poor Consortium, Indonesia**

Women in poor communities usually work in the informal sector. They earn money by cleaning the surfaces of the house around and lanes and by washing clothes. So when the police and the government evict them, they lose their money, their daily income.

Secondly, the women are put in front by the society. If the women face the police, the police will not beat them. Actually, the police just kill, and they do beat the women. The men go and the women stay in front of the house.

They are confused about the education of their children. How to continue the education of the children because they study around the slum? It is not easy to take them from one school to the other. To do that they need money also, because education is not free. You have to pay even if you are a poor person. After that they are separated from the others. The family goes to the street. The child lives in another place. They are not together. It is during the eviction, and after the eviction. But I know the poor people are beaten. Before the eviction, I knew some of them are beaten by their husbands. This is not just during the eviction, even before it they become the potential victim.

[O]ur problem [is that] we separate between violence against women and housing rights, even though in our work we try to make a link with the gender program and empower women to organise people, how to face the situation, something like that. How to deal with your husband, your neighbours, something like that. It is only a women and children's problem. We only see them going. We don't see them after that. We see them from our perspective. The department offers to give them [money] only for the child. If the mother wants to stay, she has to separate from the children. This is the government order for a

temporary house. That is why they don't want to take it from the government.

What happens to the families when they go back to the villages? What is the impact on returning? Are their livelihoods there? How are people sustaining themselves?

In the village there is no work to do. It becomes a burden and affects the family also. They come for work to Jakarta because they don't find work. Farmer or worker . . . they send the money to the family.

Are there any legal measures or legislation to protect the rights of women?

The Human Rights Law says that, the Constitution says that, also the policy in the government says that, in the gender mainstreaming says that, many many laws claim to protect women but I don't think that they serve the poorest women in the slums. They are called illegal residents and they don't get any facilities. The aid for the poor people from the government they don't get it. So the law is not protecting them. Law protects the women in the middle and high class. Helps with domestic violence, yes if they go to the police, yes. Government doesn't pay attention to economic rights, only political and civil rights. In the government this is the women's issue.

They haven't taken housing rights as an issue? What about the affected communities? Have the women there organised themselves? It might not be a structured NGO intervention but it might come from the absolute grassroots level.

Yes, they have already the women at the grassroots level. It is starting now. Some of the organisations also campaign on similar issues. We see the women and their problem, and the children also. They see that we see their problem. Women are the victims of violence.

Connie Regaldo, Hong Kong, Asia Pacific Mission for Migrants and United Filipinos in Hong Kong, Hong Kong

Like accommodation, government says you must provide accommodation. But most of us, majority, have no private rooms. It depends, if it's a teenager. We had one rape case by a 17-year-old. Because they sleep in the same room. Also another case where the father of the employer was the rapist. They also sleep in the same room. Some of us sleep in the cupboard. Another worse one is she slept on top of the refrigerator. The employer just kept a piece of wood where she can lie down. And she fell and broke her arm. There is also another case, unbelievable but true, she was made to sleep in the bathtub so she could sleep after all the members of the family finish using the bathtub. Another one had to just sit down on the toilet bowl. Some live in the cellar, living room or kitchen.

So, aside from that violation, many of us don't have even sufficient food. We eat a good meal only when the employer wants to eat in the house. We are not given extra although the law says that you have a food allowance of 300. But the employers don't really follow that, they say oh you can eat with us. But the problem in the Chinese families, they eat only at night. So that's when you'll eat a good meal.

Apart from that there is this arrangement, we usually work for 12-16 hours but we are 24 hours on call. It is worse because we are staying inside our employer's house. Aside from that, we are underpaid--especially the Indonesian domestic workers, the majority of them are underpaid. In Hong Kong, the minimum wage is 3,170 dollars but most of the Indonesian, Sri Lankan and Nepalese workers get between 1500-1800 dollars. And although the government's saying that there is a law that can prosecute the employers, the monitoring is absent. We've been doing dialogues with them but what they told us is that it is impossible for them to monitor more than 200,000 houses.

In Hong Kong it's legal to terminate the work of the domestic worker with or without reason. They just pay you one month's salary. Can be terminated any time. There is supposed to be maternity protection and maternity leave but most employers terminate the worker as soon as they learn she is pregnant. They have no responsibility to the helper.

Are you using any international law of human rights? Now that the Migrant's Convention has been in place?

Yes, we're just starting actually. For the past year, things have been actually Our own analysis is that particularly the United Nations has no political mandate on pressuring government. Even in Hong Kong, the CEDAW is applicable. Also ILC 97 is also applicable in Hong Kong. ICERD and ESCR are also applicable in Hong Kong. With the assistance of APWLD we are looking for the instrument of UN for our fight. Especially after the judicial review. We are doing that about the discrimination. If you are having a policy that is unfair on migrant people, it goes under the Bill of Rights ordinance. For UN level involvement it is important for us to know the mechanism. Firstly to project the issue at the international level and also while attending national and international level conferences we can gather more support. Creating an international public opinion for the Hong Kong government to seriously look at the impact of the policy on migrant domestic workers. The reason why also, I was at the UN last time, and in one forum that APWLD organized, Miloon was there and he is interested in looking at the living conditions of the live-in arrangements of the workers. It was good that I was there. APWLD is also interested that I attend the annual conference.

You talked about the difficult living conditions and how the women are abused. Could you talk a bit about the impact of this kind of abuse on the women?

There are different aspects. There is psychological: you are being maltreated every day, even if you are sleeping in the same quarter with an old man or an adult, you fear for your life every day. If you stay in your employer's house for two years then for two years you live having that fear. Aside from that, the health conditions: more and more migrant workers have tuberculosis and even cancers.

[Legal aid] is not free. The government will be your lawyer. But for criminal cases, you can avail of the lawyers' fee but you have to pay 300 Hong Kong dollars. But for rape cases, they are handled free but it takes a long, long time. In three rape cases, only one succeeded where the employer was in prison. The other two were commuted to sexual harassment even though it was a rape case. The judicial process is slow in other countries and during this time you don't have jobs. You depend on help from your friends or NGOs.

Do you think the legal fees and the length of the process are big obstacles to women bringing the cases to court?

No, most of the time they don't pursue the cases because they want to look for another job quickly. Most of the migrant domestic workers are also bread-winners back home.

So the biggest obstacle for women pursuing their cases is finance.

Yes, they are worried, they have to provide income for their family back home. The basic needs of their families are back home.

Krishnan Yogeswary, Institute of Development Studies, Sri Lanka

Are there any constitutional or national laws on housing rights especially in the context of women?

Actually, I think there is no special constitution for the women. There is a common law and under that they are practicing. But . . . every community is paying the loan. After they are paying they will own. But according to the plantation community, the practical problem is: after the loan payment, they didn't get the ownership. It's a joint property with the estate co-operative society and the worker. Actually it's not good for them. Acute discrimination. There are Muslim families and Sinhalese families. The Sinhalese people will get the ownership. Only tea plantation workers didn't get the ownership.

Do women get the plots? Or is it only given to men?

Not only to the man but normally the property is owned by the man.

Do women face any particular obstacles for owning property? Do they have difficulty if they want to be the owners?

The basic problem is still they didn't get the ownership. After they get ownership we can think about women's ownership. Still we didn't discuss about women's ownership.

Yogamberam Engalselvi, Institute of Development Studies, Sri Lanka
As translated by Krishnan Yogeswary

She has suffered a lot, faced a lot of problems from the father and then got married at the age of 19. In 1988 when she got married she was 19 years. Now she is 35 years. When she got married all the family, father, mother, husband, brother, sister were all living together. That is the main problem is that it was a 10 x 20 place where 7- 8 people live together. Husband's family members and her. They are a new couple. All are sleeping together. When they sleep, Selvie and husband sleep with them. Husband's father slept in the bed. Near the bed, the new couple slept. That is very difficult for her. In front of the room there is a small verandah that is where the husband's mother slept. There is no door to that room. When they slept in the room, the husband's mother would come to see what they were doing. She is talking about the difficulties of a new couple. No privacy. Main problem, if they have a sexual relationship, husband would come close to her and touch her but she was very shy because

there were others, feeling also there was no independence. After the birth of her son, her husband went in a relationship with another woman. After husband's father died, both of them lived together. Husband would start keeping relationships with other woman. She also faced violence. He would come and beat her. One day he beat her with a bottle and she was marked on her face. After two years she had a daughter. When the daughter was seven or eight months, Selvie had an operation because of the family situation and all other problems.

When she went for the operation, she went alone, her husband did not support her. He went with his girlfriend. Girlfriend lives in a big house, there are two rooms. Much bigger than Selvie's room. In this duration she got a chance to join ISD. She would like to mention Mrs. Tulinga and Mrs. Menaka Rangaswamy. Both of them came to the estate and she joined them. After the ISD's awareness program, she got a clear idea to think about her problems. Who are we, what are the problems, thinking about them step by step. Husband and wife, if they can understand, they can reduce their problems. However, if they can think about the housing problems, they can reduce their problems. You see, if we change our living conditions, the structure, she thinks they can reduce a lot of the problems. If the husband likes to enjoy sexual relationship, they can get a chance of it. Even her Indian visit, her husband gave support. Not only her, a lot of other people are in the same situation. Therefore, we must change the situation. If others also support her, we can change the situation.

If we get separate home and there are two or three rooms, then we can live separately and with freedom. Parents live separately.

Who does she think is responsible for this situation? Who has caused this problem? The duty holder? The violator?

Actually government is concerned about the problem because the estates are under the companies. Therefore they are facing a lot of problems. If they want to get land, they cannot own them. Government is concerned about the land rights. There is housing scheme but that is not properly clear.

How long have you been working with ISD?

Seven years

Have you had any successful interactions with the government to pressure them?

We are trying through ISD to pressure the government.

The estate you are on, is it government owned or private owned?

The land is the government but other maintenance and all is the company.

Does she feel that the trade unions understand her problems as a woman?

No there is no chance. In the public face is always a man. Women are behind the screen. Therefore, everything they are doing is for men only. There is no chance for our problem.

She got the awareness training through ISD. Therefore she is already talking about the problems to the trade unions also.

When she tries to discuss her problems with the trade union people, they are saying she is lying. They are asking who has told them to talk like that.

What problems do they think are lies?

The problem of wages. They tried to ask for increase of wages. Another problem is now that they know about privatisation they discussed about exploitation of women.

What do they see as being the main women's issues for someone in her situation? What are the women asking for?

Common are sexual harassment, domestic violence, and workplace violence. Others do come and discuss with her and they discuss what they can do and what steps they can take. Those are the strategies they do.

Since she became a woman leader, how does her family see her? How does her husband see her, how does the community see her now? How does the trade union see her now?

In the family, her husband is supporting her. But in the community level, some people are passing hints, like making jokes.

When she goes to discuss worker's problems, the people are thinking manager and Selvi they have relationship. Then they will create a story.

Pramila N. Parmar and Ramila J. Parmar, Navsarjan Trust, India

Firstly if the house is not good, then it will affect the women. There are no facilities for washing, bathing, etcetera. All the drains and garbage dumps are open, which spreads diseases. There are some latrines but they are not kept clean. The children sit outside it. It is so dirty that you cannot walk in those areas. The houses are very small and sometimes three families are living in it. There are a lot of problems in the city.

The land was the government's. The officials started harassing us. If anything wrong happened, they would blame us. They were corrupt also. We don't have houses; we live in huts, jhuggie, and jhopdis. Our lives are over anyway. Now the children are left. If at least for them some houses were made, something, they would have some life. Our jhuggies were burnt about 7-8 years ago. Then this organization . . . I got some help from them. They gave me support. They told me to organize everybody in the community together. We made some kuchcha houses together. My community made me the mukhiya, leader. I had organized jhuggies in about 10-20 places. We made two or three and they set fire to these. What could Muktidhara people do? We lost everything. Our grains and clothes everything got destroyed. The Muktidhara people gave food for the children. We don't have drinking water facilities even. We need to travel for two kilometers to get drinking water. There is no tube well.

Do you have any daughters?

I have two daughters, both are married.

At what age did you marry?

I was 11 years old.

At what age did you get the daughters married?

At thirteen years.

Did you send them to school?

Where could I?

But do you feel that you would have liked to?

Yes, but how could I? Now my grandchildren are there. I want to put them in school. My sons also don't have a regular job. They are labourers. They have studied up to class 10-12. They don't have a regular job. There are no jobs available. Only chowkidar's work is possible.

Do you earn anything from your work in the organisation?

No, not a salary. But I get my travel fare. Only the educated people earn money. They get 3-4 thousand rupees. But only I can talk to my community people. So I need to be here.

How did you hear about this work?

I heard from the organisation people. I used to come to them earlier too. There was a meeting of Kotharibhai. Paroji and Watanji had also come to talk and discuss. I had brought the matter of Parvati to discuss and appeal to the governor. But it had no effect.

But talking to Miloon had some effect, I am sure.

No, it made no difference. Whatever given for the poor also gets eaten up by the sarpanch or tehsildar or patwaari. They don't even talk to us. Now slowly, the organisation is making a difference to us.

The Muktidhara Sanstha had given us some strength. Now with this sanstha also we are getting that strength over the last two months. People gather there, it will give us more strength.

What do you feel is the biggest impediment in improving your situation?

It's mainly the need for a house and some drinking water facility.

But people who want the land are not letting this happen. They don't let the government carry out any of the plans. Even the ration card scheme they don't allow it to be carried out. We have absolutely nothing. We don't have that identity either.

Regarding your work with the sanstha, do the village leaders trouble you or your family because you are involved in this work?

Yes, they worry us even more. They have been troubling the Muktidhara worker, Ratanji also. They have beaten up my son. They got after my husband. I was luckily saved. Parvatiya's house was burnt. Before that they beat them up. The sarpanch and all couldn't do anything. There are too many atrocities.

Have you any idea about the law in regard to all this?

We didn't know. Why would we be so depressed? But now we are getting to know through the sanstha.

What you have heard over the last two days, you now realise that you have certain rights over the land?

Yes we now know that we have some rights. That each one of us has certain rights. We can now discuss it more in the sanstha meetings. That should reduce the injustices. We can make better jhuggies. With some waterproof material. It is added to the mud before it is used for plastering.

Hemanta Dahal, BRAVVE and RWF, Nepal

Then we took the children and went to Nepal. We had no money. We collected money from people there. I came to Nepal. My two children were treated for malaria. It was so serious. My husband and I thought they would die. But they received good treatment. My uncle was there, who had settled in Nepal earlier. Then the children were in his house. We didn't have money, we stayed there for 15 days to a month. But how long can you stay? Who will feed so many? We thought we will take a loan from someone. We had family but no money. We took a loan of 1000-2000 rupees. My husband opened a shop. I was a teacher in Bhutan, and there was a boarding school there, and somebody gave me a teaching job. The salary was too little, it was only 400 Nepali rupees. I joined the school. My husband started a shop selling utensils in a Wednesday bazaar. There were no other refugees from Bhutan, we were the only ones. Others would not come. We were with family.

[I found out that] on that same day another family had been driven away. Both our houses and property were sealed. They were also in a refugee camp, and helpless like us.

We stayed together there and here. We have done so many things together. Begging. We were in Jhapa for about eight months, then more and more people from Bhutan started coming. Hundreds of refugees came. The Bhutan government was torturing people, burning houses. Male boys were taken from the house, the army tortured women, and they didn't bear all these things. So other people came. Day by day in Nepal, they settle. Mostly on the banks of the river Mahi. So many people—hundreds—are making small huts and settling on

the bank of the river. 70,000 to 80,000 people came and after that that was the crucial period. All the people were there but there was no medicines, no treatment available, so many fell ill. The water was not good, people got diarrhea, dysentery, and fever. Children and adults. In one day 25 children died. Not in a camp, but near the river. I have the record. Everyone was crying. The Nepali NGOs knew about this. They started to support us. Only in small amounts: giving medicine, giving shelter and clothes. They said the river bed was not a good place to stay because floods could come. People will die. They saw that. Then 10,000 people were in our camp. Families were scattered here and there in camps of 10 to 15 thousand. Then we were given medicines and support in these camps.

In Bhutan, all the women were uneducated. To help them we tried getting help. I didn't know anything about NGOs or government. Then the women remained uneducated. I just talked with the NGOs and they liked to support us in non-formal education. I also received support and a little knowledge, as I was a teacher. Some of the educated people started a school. We didn't know much. We got something from somebody. We started a public initiative and with that help the educated people established a school. I was also teaching in that school. We were giving non-formal education with that NGO. After 4 months, Caritas, one of the NGOs in Nepal, was supporting the school . . . I was too happy. From school also I was getting 500 rupees and from non-formal education I was also getting 500. So it was great for me that time. My children and husband were happy. Then after two years I left school education, and I did only this female program. The NGO supports so nicely, they gave us a program for income generation. In that way we lived until 1998.

Has any attempt been made to get your property in Bhutan? Can you ever go back?

No, no we cannot go back.

You have not been given any compensation?

No, no nothing.

Have you made any attempt?

No, no even here, though we have been living in Nepal. There is a "Jaasuji" on my husband from the Bhutan government. They really harassed us to take him to jail and torture him. But the people of Nepal are very kind. They really supported and protected us for those 8 months in the village. Then after eight months the camps were started and we were safe. Then, in 1998, the NGOs withdrew their program. Everyone could read and write and sign their names. So, in 1992, UNHCR also started to support us, for shelter and all. After that, so many NGOs were there for support. Now there are different NGOs, UNHCR is the top one, then there are implementing NGO . . . This is one step. The other step is that our leader is working for advocacy. Now two governments are talking about our situation. The Nepal Government wants to send us to our country and the Bhutan Government also. This was in 2002-2003. The Bhutan Government said that we are not their people and that we are anti-nationals. They say that we sold our land and left. They have a lot of such allegations. But now there is a lot of pressure from America and all. So now, they might take us back.

ANNEX G

SUMMARY OF EVALUATIONS

SUMMARY OF EVALUATIONS

16 evaluations forms were completed. The responses are collated and summarised below. Two of the evaluations were completed in Hindi and their responses have not been included here.

1. Did you find the pre-consultation training useful? Why/why not?

Yes: 12

No: 0

Not present : 2

Reasons:

- Provided an understanding on how to make national laws consistent with international human rights by using international human rights tools to prevent VAW related to women's RAH.
- Provided tools for making our analysis more precise and authentic/monitoring (3)
- Developed our ideas
- Guided me on how to present testimonies within the framework
- Provided a broader concept of RAH and how it linked with VAW (3)
- Use of monitoring tool in RAH advocacy (4)
- Knowledge of how to use another monitoring tool to pressure the Burmese military regime on their RAH-related atrocities.
- Learned about women's rights and RAH
- Learned about SRAH's duties
- Helped me to concentrate on the new task of interlinkages between VAW and RAH

2. If yes, which of the sessions did you find most useful and why?

Use of monitoring tool kit (4) - Provided a clear cut strategic plan for evaluating work, and planning for future improvement. Using moral and legal arguments to measure how fruitfully I am applying this methodology.

- Useful for my work

First session

- Used legal concepts and framework of the RAH

Application of tool kit (2)

- By presenting cases

Session II

- Introductory link between VAW and RAH

Session I and II

- Knowledge about legal rights; identifying congruent rights; overriding principles; tool kit

Session I

- Can now apply the tool kit myself in my work

Session III

All sessions - Training methodology can be improved e.g. use case studies etc.

Meeting session outside the consultation with Miloon and Johan to plan an urgent action for Indonesia.

3. Did you find the consultation useful? Why/why not?

Yes: 14

No: 0

Reasons:

- Everyone participated in sharing, debating, questioning, which improved the analysis of the root causes of violations of the RAH in the context of VAW
- Shared problems and issues from different countries – clear examples of women’s RAH violations (6)
- Gave me an understanding of VAW and RAH linkages (2)
- More openings/room where to expand the avenues/forms of struggle
- Explored different issues using the new framework and tool kit
- SRAH can gain a better understanding of the issues, and can ask and clarify aspects
- Introduced and elaborated experiences from other countries on property rights and impact of globalisation
- Concerned that I couldn’t share my own experiences by myself.
- Developed new contacts
- Helped understanding of different dimension of VAW and its link to RAH, identified new issues
- The feedback /comment component was good
- Better understood the mechanisms and how to link SRAH’s upcoming activities with mine

4. If yes, which of the sessions did you find most useful and why?

All the sessions (3) - Better understood situation in Asia Pacific countries in relation to linkage between VAW and RAH
- Related to the work I do
- Helped develop a joint regional advocacy campaign

Sessions 3 and 4 - Shared issues in different countries

Presentation of testimonies (2) - Synthesising/concretising actual situation and actual work

Session 2 - Sharing of issues among participants
- Sharing of experiences/testimonies of women victims of VAW in Dalit, Bhutan and the nomad community
- Using tool kit to analyse cases
- Can analyse and link other issues with my work

Identifying strategies

The first and last testimony sessions were better. Some of the testimonies could have been better presented – more analysis

Response of SRAH/resource persons - the questions, answers and reflections on each theme (2)

5. Can you identify any new skill/capacity that you gained from the pre-consultation training and/or the consultation?

- Making presentations in a more focused manner (2)
- Power, inspiration and confidence to make a decision
- Making a framework
- Identifying future strategies for advocacy
- Monitoring tool kit and its use (4)
- Different strategies/ actions/interventions in RAH work
- Understanding connections between domestic human rights and international law
- How to build on state accountability for RAH
- Links between women's right and RAH to my work
- Analysis to link between VAW and RAH
- Strengthening my understanding of the indivisibility of rights.

6. Do you think inclusion of issues raised in this consultation, in the report of the UN Special Rapporteur will be helpful to your work? If yes, in which way?

Yes: 14

No: 0

Reasons:

- Exchanging our opinions can open our thoughts and create new directions for achieving our goal
- Now issues such as armed conflict and militarization will be taken into consideration at the international level
- Lobbying (2)
- Advocacy (3)
- Campaigning
- Inclusion of issues raised in the consultation in the report of the SRAH will be helpful in exploring the issue at the international level, and achieve resolution
- Can make the links to other human rights reports
- Support governments and NGOs to address underlying issues of natural resource depreciation, poverty and HR violations
- SRAH to take a greater role in pressuring my government to acknowledge and recognise the rights of hill tribes
- To develop a concrete plan using this framework.
- We never thought about interlinkages between VAW and RAH before. It is very concrete task and we will work in this framework in the future.
- We would like to have more concrete recommendations to the UN
- Mainstreaming VAW

7. How could such consultations be improved in the future?

a) *Preparations*

- Expand participation from other sectors such as peasants, workers from the MNCs, etc.
- Good (2)
- OK
- Send materials in advance to participants
- Work closer with local organisations being invited; spend concrete time with presenters prior to the presentations

b) *Materials*

- Arrangement of the session is informal
- Satisfactory
- Sufficient
- Should be translated to the participant's local language where they don't speak English.
- Simplify the language of the materials so ordinary people can understand (3)
- Good
- Conclusions to be typed into laptop and flashed by LCD so that we can follow and comment

c) *Resource persons*

- Satisfactory
- Great
- Good

d) *Substance*

- Voluminous
- OK
- Very informative
- Good

e) *Facilities/venue*

- Fair
- OK
- OK – a bit noisy
- There was no room to share experiences after the session/see videos etc
- Good

f) *Accommodation*

- Problems with ventilation
- OK
- OK- noisy
- No proper bath tub, towels were old, and needed tissues, toilets were not clean (3)
- Needed fresh water/hot water for drinking in the rooms (3)
- Needed map for directions to local neighbourhood and transportation

- Needed better facilities for communication, computers and internet (3)
- Good

g) Other areas

- Food preferences of participants should be considered
- Should have had all participants sit together the evening before the consultations

8. In what areas would you like to see the organisers assist you in your work?

- Research (3) – on violation of RAH and its impact on women
- Advocacy (2)
- Consultation
- Refugee issues
- Monitoring and reporting
- Lobbying (2)
- Keeping in touch with the organisations (2)
- Follow-up consultation to assess effectiveness of tool kit
- Public awareness (2)
- Provide news updates (3)
- Provide more resources (2)
- Technical assistance from resource persons (3)
- Fundraising

9. Did the pre-consultation training and consultation help you better understand the following? If yes, please elaborate how you will be able to use them?

a) the linkages between VAW and women's RAH?

Yes: 3 Little bit: 1

b) the Special Rapporteur mechanism of the United Nations?

Yes: 3 Little bit: 1

Comments: needed more details

c) the principle of accountability of state and non-state actors?

Yes: 3 Little bit: 1

Comments: - Strategies on how states can be accountable
 - How SRAH can facilitate to address gap in state accountability
 - Too general

10. What kind of follow-up will you/your organisation be able to offer after this workshop?

- Share information through workshop/seminar at national/local level (5)
- Share information and promote housing rights with Bhutanese community
- Consultation paper be available as soon as possible.

- Provide the real situation of women's RAH
- Monitoring and evaluation
- Information dissemination in current RAH campaign
- Translate information
- Include VAW and RAH issues in CEDAW shadow report
- Present this framework back to UPC and Komnas Perempuan
- Planning action with local and international groups for lobbying
- Continue work in this direction
- Maintain contacts made during consultation
- Research
- Contacts with housing groups in Malaysia
- Organise joint monitoring of SRAH questionnaire

11. Any other comments?

- It's a great learning achievement and a great hope to open up my feelings, thoughts, and views about my society where women are always struggling to find out the most possible way to establish their RAH
- VAW and violations of RAH have been really serious issues and have had a severe impact on women, therefore we need support and assistance to ensure the housing rights of women in Nepal
- You are all great!
- Some of the participants were not familiar with the UN/international law system
- Thanks for taking care of me (2).