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Submission

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Concerning

GHANA

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Universal Periodic Review**

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I. INTRODUCTION

United Nations General Assembly resolutions leading to system-wide human rights institutional reform have brought about major opportunities for the implementation of human rights in all UN Member States. One of the most important of these developments is the new institution of the Universal Periodic Review (UPR), slated to become operative in 2008. General Assembly Resolution 60/251 mandates that constructive engagement with States will be the dominant mode of the UPR. The UPR will engage in “interactive dialogue” with the “full involvement of the country concerned”. The guiding principles behind the UPR are universality, impartiality, objectivity and non-selectivity. The UPR thus constitutes among the most important developments in the Charter-based system of human rights review in the history of the United Nations.

On 18 June 2007, the 5th Human Rights Council adopted unanimously a text on institution building, among other things setting out the modalities of the Universal Periodic Review. As set out in the 18 June resolution, the Office of the High Commissioner for Human Rights (OHCHR) is to prepare for Council two 10-page texts on each country coming under UPR assessment. The first of these documents is to summarize material included in the reports of treaty bodies and special procedures regarding the country concerned. The second document summarizes “additional credible and reliable information” coming to the attention of the OHCHR.

The scale and complexity of the housing problems in the urban areas of Ghana are intensifying. The urban poor with their low income, inconsistent employment and low assets are especially vulnerable to housing rights violations. Slums are the most acute expression of urban poverty, a visible marker of physical and environmental deprivation. Although Chapter 5 of the 1992 Constitution nevertheless provides for the right to own property alone or in association with others, the right of non-interference with the privacy of one’s home as well as protection from the deprivation of one’s property, it does not expressly provide for the right to adequate housing thereby protecting such rights of its citizens. The implication of this is that the violation of the right to housing is unenforceable in the courts of Ghana. In addition there are other specific laws and policies that regulate housing issues in Ghana. Notwithstanding the implied protections provided by Chapter 5 of the Constitution as mentioned above, the overcrowding and poor quality of housing in low-income areas of most cities signifies the very little impact these protections under the law and previous interventions have had.

The Centre on Housing Rights and Evictions (COHRE) herewith offers the present submission with the aims of (i) assisting the work of the OHCHR in providing the Human Rights Council with high quality reporting in these areas; as well as (ii) facilitating civil society input into this revolutionary new international procedure. It is our hope that, during this crucial first phase of the Universal Periodic Review, in which its credibility as a mode of redressing human rights harms is inevitably under intense scrutiny, the material provided herein can provide a sound basis for engagement with the authorities of the country at issue.

Following a brief summary of the information herein, this submission provides:

- First of all, brief examination of past policies in Ghana which were aimed at protecting and promoting the right to adequate housing as well as the current laws and policies;
- Secondly, discussion of key housing rights issues in Ghana documented by COHRE and/or credible sources.

II. EXECUTIVE SUMMARY

1. Introduction

The year (2007) marked the 50th anniversary of Ghana's independence. As such, it has been taken as an important moment to discuss Ghana's post-colonial progress and the challenges that lie ahead in an age of globalization. It is in this context that President Kufuor, in his State of the Nation address to Parliament in 2005, identified the lack of adequate and affordable housing as one of the critical problems faced by the country.¹ According to Ghana News Today, Accra is in the midst of an accommodation crisis, as house and land prices are spiralling out of control and even middle class Ghanaians cannot afford to own a home.² Lack of affordable options to own property forces many Ghanaians into the rental market and informal settlements, which is drastically increasing due to population growth and urbanization. Informal rental housing has been characterized as overpriced, overcrowded and inadequate, while formal rental housing often disproportionately caters to upper income groups and foreign workers.

2. Housing rights issues discussed in this report

Although Ghana has ratified most of the international legal instruments which provide for the protection and promotion of the right to adequate housing, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women, there is still a lot to be done in relation to domestication of these provisions in the national laws to protect Ghanaians rights to adequate housing. This paper discusses the key issues on the right to housing and the laws and policies which govern this issue in Ghana.

2.1 Lack of express provision on the right to adequate housing in the 1992 Constitution

The 1992 Constitution of Ghana, which is the supreme law of the land, does not expressly provide or the right to adequate housing. This right in most cases is implied in the wordings of chapter 5 of the Constitution which generally protects fundamental human rights. This is a real difficulty for Ghanaian whose housing rights are regularly violated as the Courts do not see this right as justiceable. This matter is in urgent need of remedy.

2.2 Laws and policies regulating housing in Ghana

The Rent Act 1963, (Act 220), the law regulating affairs between landlords and tenants is currently ineffective. Although it was promulgated to protect tenants, one cannot depend on this Act any longer. It does not afford any protection to Ghanaians in practice, and as a result tenants are being exploited by landlords. Although the Act is currently under review, the review lacks adequate involvement of the poor and the marginalized. Also, a National Housing Policy has been initiated by government ministries, the private sector and non- governmental organizations to address failures in past housing policies. However, this has been at the draft stage for sometime and in its current draft form would provide the necessary protection for people living in slums.

¹ Republic of Ghana Ministry of Public Works and Housing Webpage. Executive Summary of the Concept Paper National 2015 Housing Strategy: Policy Review and Action Plan. <http://www.ghanahousing.com/resprop.html>

² Housing Prices in Accra to High, Ghana News Today, 22 Jan 07. http://www.ghananewstoday.com/gnt_cn_detailb.cfm?tblNewsCatID=21&tblNewsID=339.

2.3 Right to adequate housing

The lack of express provision in the Constitution to protect the right to housing, coupled with failures in the laws and policies governing housing in Ghana, has raised significant concerns about Ghana's human rights record. This has had a tremendous negative effect on Ghanaians and typical among them are the key issues identified in this report which include:

- the high costs of rent despite low incomes;
- shortage in housing stock;
- lack of enforcement of the Rent Act and other acts and omissions detrimental to poor renters;
- urbanization and the growth of informal settlements;
- forced evictions;
- discrimination against women with regard to the right to adequate housing.

2.4 Women's housing rights in Ghana

While women in Ghana represent a large part of the workforce, they are still unable to secure land and housing due to economic and gender-based inequalities. Women make up roughly 85 percent of the wholesale and retail trading industries and about two-thirds of manufacturing in the informal sector but do not make sufficient income to pay increasing rent costs and advanced rent payments required by landlords.³ Without affordable options, women are often forced into inadequate living situations, often in slums and without access to water and proper sanitation facilities.

2.5 Gender discrimination in inheritance matters

Because gender inequality is still evident in government institutions, traditional leadership and within customary laws and practices, there are many structural barriers women continue to face in lifting themselves out of the cycle of poverty. For example, women's inability to directly inherit land in both patrilineal and matrilineal systems excludes women from the economic benefits of ownership and secure tenure. Furthermore, barriers to education, employment and healthcare deny women of their fundamental rights and perpetuate women's inability to access adequate and affordable housing for themselves and their families.

This report presents past and present policies aimed at addressing barriers to the right to housing has revealed that national strategies have had limited success due to matters including: fragmentation in planning and implementation; lack of funding; corruption; a dormant private sector; and inadequate monitoring and evaluation mechanisms. In this regard, this submission discusses current housing rights issues in Ghana and offers recommendations to consider in moving forward with the National Housing Policy, the Rent Act and other related issues from a human rights perspective.

COHRE hopes that this review will help contribute to bringing about new energy to the organization of the housing system in Ghana. To this extent, the Rent Act and other related laws which regulate the provision of housing in Ghana are currently under review. The Universal Periodic Review offers an important opportunity to ensure that the ongoing review of relevant policy and law in Ghana results in a balanced and fair legal framework and an environment that

³ Ghana: Women's Role in Improved Economic Performance. The World Bank Group. Africa Region Findings. No. 145, October 1999. <http://www.worldbank.org/afr/findings/english/find145.htm>

protects the human right to housing for low income Ghanaians, especially women. Specific and detailed recommendations are brought in section V of this report below.

COHRE urges the Human Rights Council and the Office of the High Commissioner of Human Rights to take note of the recommendations made, and incorporate them into their assessment of the Government's compliance with its obligations.

III. EXAMINING PAST AND PRESENT LAWS AND POLICIES ON HOUSING

1. Introduction

An examination of past and present policies aimed at addressing barriers to housing in Ghana revealed that national strategies have had limited success due to fragmentation in planning and implementation, corruption, a dormant private sector, and inadequate monitoring and evaluation mechanisms. The failure of past and current policies to capture the factors which are considered to determine what constitutes adequate housing as set out in General Comment 4 of the Covenant of Economic, Social and Cultural Rights⁴ reveal significant gaps in the utilization and progression of a rights based approach to housing in Ghana.

2. Specific laws and policies on housing since independence

The right to housing has never been considered a critical issue in Ghana's development framework. This as a result has brought about a series of fragmented policies rather than a holistic, comprehensive vision to deal with the complexities of housing since independence.

2.1 1960-67 Independence and a National Development Plan

Following Ghana's independence in 1957, the main goals of development planning included steady economic growth and improvements in living standards for the urban and rural populations.⁵ After independence, housing policy was geared towards direct state delivery of housing units: "The housing policy at that time was centralized with subsidy packages made available to increase ownership of houses in the country in the form of roof loans scheme, self-help housing scheme, public housing, and the provision of serviced sites to developers for housing construction."⁶ Other initiatives at this time included mass housing production for public sector workers and the creation of the State Housing Corporation. However, these policies eventually ceased to be effective due to progressive reduction in funding and the 1966

⁴ Legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, accessibility, habitability, location and cultural adequacy. The Office of the United Nations High Commissioner for Human Rights, The Right to Adequate Housing, CESR General Comment Number Four, 13 December 1991.

⁵ Daniel Morales-Gómez, Necla Tschirgi, and Jennifer L. Moher REFORMING SOCIAL POLICY Changing Perspectives on Sustainable Human Development IDRC 1999. Ernest Aryeetey and Markus Goldstein Chapter 2: Ghana, Social Policy Reform in Africa. Accessed 23 March 2007 http://www.idrc.ca/en/ev-9401-201-1-DO_TOPIC.html

⁶ Daniel Morales-Gómez, Necla Tschirgi, and Jennifer L. Moher REFORMING SOCIAL POLICY Changing Perspectives on Sustainable Human Development IDRC 1999. Ernest Aryeetey and Markus Goldstein Chapter 2: Ghana, Social Policy Reform in Africa. http://www.idrc.ca/en/ev-9401-201-1-DO_TOPIC.html

overthrow of the government.⁷ Overall, despite many attempts to address housing needs, the Nkrumah government's interventions faltered as financial and human resources diminished through decelerating and, later, negative economic growth.⁸

2.2 The 1963 Rent Act

The Rent Act of 1963 (Act 220) was adopted to regulate landlords' and tenants' relationships.⁹ While the Act was intended to create a more systematic and government controlled housing in Ghana, two main criticisms have emerged since its inception. First of all, though the Act forbids landlords to demand more than six months' advance rent or deposit to secure a property, this rule is not enforced and is almost universally violated throughout Ghana. It is reported that landlords presently demand up to two to five years of advanced rent payments. This is a serious problem for poor individuals and families, ordinary workers, prospective foreign investors and can be interpreted as a violation of the human right to adequate housing.



The second major criticism lies in institutions and enforcement mechanisms created under the Act. The Rent Control Department (a picture of the entrance to the office is on the right here) is the primary authority responsible for resolving disputes between landlords, tenants, and other persons with interests in premises. However, this department has been reported to be notorious for its inefficiency and corruption. Situations have been reported where landlords can bribe the Rent Control office to evict tenants faster. It is also found that tenants “counter bribe” the Rent Control Officer rather than pay back rent.¹⁰

2.2.1 Review of the Rent Act 1963 (Act 220)

The current Rent Act has outlived its usefulness and as a result it is currently under review. According to the Law Reform Commission, the institution charged with reviewing the Act and making recommendations to the government, enforcement is one of the key issues that need to be addressed in the review of the Rent Act. The Rent Control Office is currently the mechanism for enforcement; yet offices are understaffed and ill-resourced. There is no outreach to landlords and tenants regarding education of rights and adjudication procedures. In terms of settling disputes, there is a lack of capacity for real enforcement due to the lack of subpoena power that officials are authorized. There is also a lack of accountability throughout the administration as the Chief Rent Officer is not overseen by a commissioner, as was mandated by the Rent Act.¹¹ Throughout the review of the Rent Act, it has become increasingly apparent that changes made to this legislation will be in vain unless proper enforcement mechanisms are put into place. From both a gender perspective and a rights-based approach, ensuring that the Rent Act is enforced in a way that is sensitive to women's issues and takes into account regional and international human

⁷ Mahama, Callistus and Antwi, Adarkwah. Royal Institution of Chartered Surveyors. 2006 World Urban Forum Discussion Paper: Land and Property Markets in Ghana. Accessed on http://www.intlhc.org/wuf/land_property_ghana.pdf

⁸ Ibid

⁹ Republic of Ghana Ministry of Public Works and Housing Webpage. Executive Summary of the Concept Paper National 2015 Housing Strategy: Policy Review and Action Plan. Accessed 17 Mar 07 <http://www.ghanahousing.com/resprop.html>

¹⁰ Global Property Guide Webpage. Ghana: Landlord and Tenant. <http://www.globalpropertyguide.com/country.php?id=75&cid=sa&cat=6>.

¹¹ David Agbale. Legal Officer. Law Reform Commission. Hotcatt Building, Accra, Ghana.

rights standards in regards to housing is crucial. However, consultation mechanisms are inadequate, and so the poor are unable to engage effectively to influence this process.

“While there are regional rental offices, district level offices are greatly needed. Also, trained staff, particularly lawyers and individuals trained in housing policy would be a welcomed resource for the offices.”

Interview with Mr. B.O. Agyemang- Chief Rent Officer

2.3 1970's A New Administrations and New Policies

Within ten years of Nkrumah's administration, there were six regime changes at the national level in Ghana. With changes in administration came changes in the role of the state in housing policy. The most drastic change in the housing sector was the government's shift away from direct provision of housing. Instead, private sector participation was encouraged with the government establishing the Bank for Housing and Construction (BHC) to provide construction loans at moderate terms to citizens. In the rental market as well, many changes were occurring with the transition of administrations over the years. Rental subsidies were withdrawn for a period of time and then re-introduced as housing became part of basic human rights that the state must help to provide. “Subsidized housing units were created and policies such as site and services provision, slum upgrading programs, rural and urban cooperative housing and self-help housing schemes were introduced.”¹²



2.4 From the 1980's to the New Millennium: Structural Adjustment Programs and Increased Challenges to Housing

Due to increased financial crisis in Ghana by 1980, the Rawling's Administration turned to the Structural Adjustment Programs of the World Bank for assistance. The Structural Adjustment Programs required Ghana to participate in trade liberalization initiatives, which opened its market to imported building materials and necessitated the loosening of rent controls. The opening of the market forced Ghanaians to rent accommodation at commercial rental prices on an open market. Increased prices led to developers and landlords converting closets, toilets and other small spaces into rental units that local people could afford. Urban housing reforms were implemented to promote urban economic development. Such programs included the Accra District Rehabilitation Program, committed to upgrading infrastructure in Nima and Maamobi in 1986 and revamping of the State Housing Corporation and the Tema Development Corporation into limited liability corporate entities.¹³ A National Housing Policy was implemented leading to the liberalization of the housing sector and the creation of The Ghana Real Estate Developers Association (GREDA) and the Home Finance Company (HFC). However, with economic goals and market principles given priority, approaches to social policy and commitments to achieving social-development goals have been secondary at best. By 2000, it was clear that the Structural Adjustment Programs had not had the desired economic impact. Inflation and interest rates soared with a significant impact on the housing industry.¹⁴

¹² Mahama, Callistus and Antwi, Adarkwah. Royal Institution of Chartered Surveyors. 2006 World Urban Forum Discussion Paper: Land and Property Markets in Ghana. http://www.intlhc.org/wuf/land_property_ghana.pdf.

¹³ The Statesman Website. “A Brief History of Housing in Ghana.” 23 January 07.

http://www.thestatesmanonline.com/pages/news_detail.php?section=7&newsid=2158.

¹⁴ Ibid.

2.5 The New National Housing Policy

The National Housing policy is a current initiative aimed at addressing past policy failures through a collaborative and comprehensive strategy by the Republic of Ghana's Ministry of Works and Housing Department (MWH), private sector, civil society organizations, and others.¹⁵ The main goal of this policy are; a) identify the key issues, problems and opportunities in the housing sector; b) define a policy focus and vision as entry point for the review; c) define the operational methods for effecting the policy review and strategy plan development; d) galvanize and harness local and global commitment of respective interest groups in partnering and participating in responsive interventions for the present and future; and e) create an institutional platform for continual and focused engagement of all parties to periodic review of the status of the sector. This includes the need for establishing a source for collection of all relevant housing information. However, the draft policy has not taken into consideration the situation individuals of lower income, slum dwellers and slum upgrading. It is more geared towards the private sector's contribution to housing in Ghana and this will not be favourable to the poor. The policy does not make provision for a clear mechanism and procedures that will ensure that people living in the informal sector can access mortgages and loans or other mechanisms to access adequate housing.

It is very evident that the new policy will undoubtedly be influenced by additional actors that are not formal contributors to the policy process. Currently, half of Ghana's national budget is supplied by foreign aid from organizations including the World Bank, the International Monetary Fund (IMF) and several other institutions and individual nation donors working together under the "Multi-Donor Budgetary Support (MDBS) Framework."¹⁶ Through the provision of low and zero interest loans for development, these international financial institutions and donor governments play vital roles in the economic future of Ghana and consequently national housing policy.

IV. DOCUMENTATION BY THE CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE) AND/OR OTHER CREDIBLE SOURCES

"In Ghana today, there is a 50-year legacy that has resulted in a veritable housing crisis. In the city markets we can see vendors sleeping in their kiosks, children living on the streets, and entire communities living in decrepit shacks with no amenities as the city sprawls ever-wider and the wealthy few who can afford houses enjoy access to the heart of urban comfort."

-Ghana News Today, January 2007

1. Introduction

The utilization of a human rights based framework is essential in examining key issues related to affordable housing and access to the rental market in Ghana. Due to the Ghanaian government's

¹⁵ Republic of Ghana Ministry of Public Works and Housing Webpage. Executive Summary of the Concept Paper National 2015 Housing Strategy <http://www.ghanahousing.com/resprop.html>

¹⁶ World Bank. Ghana Country Brief Webpage. <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/GHANAEXTN/0,,menuPK:351962~pagePK:141132~piPK:141107~theSitePK:351952,00.html>.

cooperation with international and regional human rights standards, a rights-based approach can directly impact the interpretation and implementation of laws regarding access to housing.

Particularly, Ghana's adoption and proclamation of the Universal Declaration of Human Rights (UDHR), of the Organization of African Unity's (OAU), African Charter on Human Rights and People's Rights, and its incorporation of human rights into the 1992 Constitution of the Republic of Ghana, demonstrate a strong commitment to human rights.¹⁷ Drawing upon this commitment and the influence and force of the international community to uphold the Ghanaian government and other actors to human rights standards can be an effective tool for addressing housing rights violations and ensuring progress in housing rights and equality for all Ghanaians.

2. Key Housing Rights Issues in Ghana

2.1 Low Incomes and Rising Rent Costs

Currently in Ghana, it is estimated that 39% of the population lives below the poverty line, and about 27% experience extreme poverty.¹⁸ While poverty is generally considered a more rural than urban phenomenon, the extent of urban poverty is most likely under-estimated as costs of living in urban areas are much higher. The Ghana Living Standard Survey from 1998/1999 found that an average individual in the poorest 20% of the Ghanaian population earned US \$69 a year, while an average household in the poorest 20% of the population earned \$409 per year. The national average per capita income was \$220 and the national average household income was \$947. Estimates for 2005 indicate that per capita income remains around \$450 per year.¹⁹ The current minimum wage per day is 1 Ghana cedi, 9 pesewas (approximately \$2) and most Ghanaians in the public sector earn less than \$100 per month.



According to the 2002 Population Census, there have been substantial increases in the cost of living for Ghanaians, making the lack of affordable housing a more urgent concern. Rent costs vary across urban and rural regions in Ghana. The average cost of rent in Accra is between sixty and hundred Ghana cedis per two bedroom facility a month, which is approximately \$80-\$120.²⁰ Therefore, based on the foregoing figures, the average household could be paying rent costs in Accra that exceed the household's annual income especially where payment of rent is demanded from one to five years advance by landlords.

Additionally, to date the mortgage system has not expanded to make any meaningful impact. The terms and conditions set by the banks, with their interest rates preclude the majority of middle to low-income households from accessing this system. With a per capita income of US\$430, the average house price of properties developed by private real estate operators at US\$20,000 makes access for a majority of households effectively impossible.

¹⁷ Office of the United Nations High Commissioner For Human Rights. Ghana Homepage. 2006.

<http://www.ohchr.org/english/countries/gh/index.htm>.

¹⁸ National Development Planning Commission, "Ghana Poverty Reduction Strategy 2003 Annual Progress Report," March 2004. http://poverty2.forumone.com/files/Ghana_PRSP_APR.pdf.

¹⁹ <http://www.finfacts.com/biz10/globalworldincomepercapita.htm>

²⁰ Parliament of Ghana: Latest News, "MP CAUTIONS LANDLORDS AGAINST DEMANDING RENT-IN-ADVANCE IT IS ILLEGAL," Accra February 15, 2006. <http://www.parliament.gh/newsdetails.php?id=0153>

2.2 Shortage in the Housing Stock



According to the Ministry of Works and Housing, there is “insufficient housing stock to meet the ever-increasing demand for housing in the urban areas.”²¹ Recent estimates range from absolute shortages of 400,000-500,000 units of housing nationwide. It is further estimated that to replace this shortfall national housing delivery should be between 120,000-175,000 housing units a year, however the current supply capacity is only 30,000-40,000 units per year. “Thus 60 per cent of the national requirement remains unsatisfied each year.”²²

Where houses and apartments are being built or rehabilitated for use, it is often those in the middle and upper income groups that tend to benefit.²³

The African Union for Housing Finance has reported that demand for housing is significantly higher in the major cities of the country, Accra, Kumasi and Tema. The shortage in housing stock poses a major barrier to affordable, accessible housing in Ghana. Without enough housing units to satisfy demand, the scarcity of housing drives up prices, increases the construction of informal settlements and slums, forces Ghanaians to live in inadequate and even unsafe housing. According to 2001 estimates by UN-Habitat, approximately 13% of Ghana’s urban population does not have access to a safe water source and only 44% of the urban population has seen improvements in sanitation systems.²⁴ These conditions can result in significant health risks, impact the workforce and ultimately hurt Ghana’s fragile economy.

2.3 Pro-Landlord Policies and the 1963 Rent Act

The rental system in Ghana has been characterized as “pro-landlord” and market driven, against the best interests of citizens and particularly persons with low income. These policies are reinforced by the Rent Act of 1963 which allows the cost of rent to be freely negotiated in Ghana but allowing for unrestricted price increases at the discretion of the landlord. Although the Rent Act established a Rent Control Division that is responsible for the establishment of guidelines relating to the monitoring of landlords and tenants relations, protection of tenants is minimal. Unrestricted price increases exploit individuals and families, as it subjects Ghanaians to frequent price elevations, which often times results in evictions and increased instability and poverty. For Ghanaian families who both live and work on the same rented property for instance, their livelihood and security are doubly threatened.

Another major issue regarding the current Rent Act is the provision for landlords to collect deposits or require advanced payments on rent. While the purpose of such a provision was to protect landlords in an unstable market, the effects on Ghanaian citizens are perilous. According to the Act, landlords can only charge six months rent in advance, and succeeding rents are due every six months; however, in practice, landlords can charge one to three years rent in advance. As the demand for accommodation exceeds supply, tenants have no choice but to accept these

²¹ African Union for Housing Finance. Current Housing Situation in Ghana Webpage. <http://www.auhf.co.za/members/ghanareport.htm>.

²² Ibid.

²³ Government Committed to Solve Housing Problems.” GhanaDistricts.Com Webpage, 28 November 2006. <http://www.ghanadistricts.com/news/?read=2574&PHPSESSID=cf6bf4b400da33fc0d8296b0def413ac>.

²⁴ UN Habitat Website : Country Profile Ghana 2007. <http://www.unhabitat.org/list.asp?typeid=44&catid=198>.

rent charges or lose their rental units to other tenants.²⁵ This system is also characterized by high charges by estate agents/brokers and inefficient rent tribunals.

2.4 Urbanization and the Growth of Informal Settlements

According to UN-Habitat, in 2005 Ghana had an estimated 5.4 million slum dwellers and future projections show that the number of slum dwellers will reach 7.1 million by the year 2020 if drastic measures are not taken to address urban poverty on a national level.²⁶ In monitoring the achievements of Ghana's commitment to The Millennium Development Goals (MDGs), it is doubtful that Ghana will achieve its goal of "significantly improving the lives of at least 100 million slum dwellers by 2020."²⁷



"Upgrading Low Income Urban Settlements," a World Bank study in 2002, found that rapid rural to urban migration is rising annually due to increased economic growth and young workers seeking income generating opportunities.²⁸ The World Bank Study classified the housing stock of slums in the 2002 report as "a mix of formal development and traditional development (e.g., land allocated by local chiefs)." The study found that the majority of urban poor living in these areas, pay rent to a "legal" householder, often for a room, in areas with poor housing stock and few urban services. Compound style living is also common in many of these areas sometimes with up to 20 families living in one or two rooms and sharing toilet facilities.²⁹ Therefore, overcrowding fuels the many hazards already associated with urbanization and slum settlements, making individuals and especially children increasingly vulnerable to health problems and disease. Another World Bank report that looks at HIV/AIDS in an urban context makes the connection between increasing HIV/AIDS rates and the "conditions of urban poverty and vulnerability in terms of the selection of livelihood opportunities, the social impacts of informal settlements, the flux in populations, and the movement of people within and beyond cities." The health and environmental risks linked to urban slum dwelling can have devastating results on a city, including "decreases in labor productivity, increased demand for services, and lower capacity of users to pay for services, increased household vulnerability and increased numbers of absolute poor (e.g., orphans, People Living with HIV/AIDS)."³⁰

²⁵ Global Property Guide Webpage. Ghana: Landlord and Tenant.

<http://www.globalpropertyguide.com/country.php?id=75&cid=sa&cat=6>.

²⁶ UN Habitat Innovative Financing for Affordable Housing Accra, Ghana 28 November 2006

<http://www.unhabitat.org/content.asp?cid=4146&catid=198&typeid=5&subMenuId=0>

²⁷ Martin Luther. Ghana's Housing Sector, Who Cares for the Poor. Social Watch

http://www.socialwatch.org/en/noticias/noticia_65.htm

²⁸ Upgrading Settlement Communities Country Profile: Ghana World Bank

2002 <http://www.worldbank.org/urban/upgrading/ghana.html>

²⁹ Upgrading of Low Income Settlements Country Assessment Report January 2002 World Bank

<http://web.mit.edu/urbanupgrading/upgrading/case-examples/overview-africa/country-assessments/reports/ghana-report.html>

³⁰ World Bank: Urban Health Webpage. "HIV and Urban Areas Overview, 2007. Accessed on 16 March 2007

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTURBANDEVELOPMENT/EXTURBAN>

The elements that constitute “adequate housing” defined under General Comment No. 4 by the Committee on Economic, Social and Cultural Rights³¹ are also often grossly violated in the rental housing market in Ghana. Particularly in the informal rental market, where tenants are renting one room wooden structures far from jobs and transportation, without water and sanitation facilities and without secure tenure or legal rights. The failure of past and current policies to address these seven aspects of the human right to “adequate housing” in Ghana reveal significant gaps in the utilization and progression of a rights based approach on the ground.

2.5 Forced Evictions

The urban population in Ghana is expected to double between 2000 and 2015. The majority of these new urban dwellers will find themselves living in slum conditions and poorer settlements. Today, Ghana’s urban poor, like most slum dwellers around the world, struggle with issues of sanitation, infrastructure, and natural disasters, including fire outbreaks (because of densely packed wooden structures) and flooding (many of Ghana’s slums are located on marginal land prone to flooding), but they also face the challenge of forced evictions. A typical example is the Agbogbloshie slum in Accra as showed in the above 3 pictures.



The settlement of Agbogbloshie as showed in the above picture (or ‘Sodom and Gomorrah’, as it is sometimes pejoratively called), has become a focal point for Ghana in its struggle with the challenges of urban overcrowding as it is habited by over 35,000 people. Situated in an environmentally sensitive area, poised for development, the community is both a vibrant and contributing part of the local economy, and simultaneously an eye-sore and a potential health risk.

Ghana is rapidly urbanizing but government and local authorities have inadequate strategies to deal with, or effectively manage, the change process. In many cases local governments have reverted to forced eviction of the urban poor despite historical experiences that this does not work, because they lack the capacity, experience or ideas for alternatives.³²

[HEALTH/0,,contentMDK:20502240~menuPK:1127421~pagePK:148956~piPK:216618~theSitePK:1090894,00.html](#)

³¹ Legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, accessibility, habitability, location and cultural adequacy. The Office of the United Nations High Commissioner for Human Rights, The Right to Adequate Housing, CESR General Comment Number Four, 13 December 1991.

³² A Precarious Future, The Informal Settlement of Agbogbloshie, Accra Ghana, www.cohre.org

Case Study: Forced Evictions in Digya National Park, Ghana

Forced evictions in Ghana are a tragic symptom of nationwide insecurity in housing tenure and informal landlord/tenant relationships. Forced evictions are also a violation of international and regional human rights laws that Ghana has ratified and are in conflict with the 1992 Constitution of Ghana.

According to Amnesty International and the Centre on Housing Rights and Evictions (COHRE), hundreds of residents living in Digya National Park in the Tapa-Abotoase area of Lake Volta, Ghana have been forcibly evicted and thousands more are at risk. These evictions have deprived residents, including women and children, of their homes and livelihoods and it is believed that more than 100 deaths have resulted from the eviction procedures.

Victims have reported that there was not adequate consultation with the community prior to the evictions, insufficient notice regarding when the evictions would take place, excessive force resulting in fatalities and lack of compensation or redress for victims. All of these reported actions are violations to basic human rights laws and standards and counteract the government of Ghana's progress in making adequate housing more accessible and affordable for individuals and families.

-COHRE/Amnesty International Joint Public Statement- 19 April 2006
Ghana: Forced Evictions in the Digya National Park Area Must Stop
www.cohre.org

3. Women's Housing Rights in Ghana

3.1 Introduction



“Discrimination permeates many aspects of housing markets throughout the world and most often women tend to have less access to ownership than other groups.”³³ Unfortunately, Ghana shows no exception to this observation. According to the Committee on Elimination of Discrimination against Women (CEDAW), Ghana has made some progress in addressing discrimination against women but has not done enough to ensure that women are gaining economic and social progress in society. Both

affirmative action policies and gender-neutral policies have been implemented by the government to further the rights and opportunities of women. However, policies and programs have failed to address the urgent housing needs of the majority of women in Ghana, particularly those who work in the informal sector. While issues specific to women's access to the rental market are not adequately documented in Ghana, discrimination in other areas of society and limited government interventions clearly reinforce barriers women in Ghana face to affordable and adequate rental housing.

³³ UN-Habitat. “Rental Housing: An Essential Option for the Urban Poor in Developing Countries.” 2003, <http://www.unhabitat.org/pmss/getElectronicVersion.asp?nr=1125&alt=1>.

According to the World Bank, evidence in Ghana points to persistent gender disparities in access to and control of a wide-range of assets: human capital assets (education and health); directly productive assets (labor, land, and financial services); and social capital assets (e.g., gender differences in participation at various levels, and in legal rights and protections).³⁴ Examples of disparities in human capital, directly productive and social capital assets are provided in the table below.

Disparities in Women's Human, Productive and Social Assets in Ghana

Human Capital Assets:

- 49.8 percent of females in Ghana between the ages of 15 and 24 are literate as opposed to 66.4 percent of males. (World Bank 2004)
- Life expectancy for women is 58 and maternal mortality among women has been estimated between 1,400 and 3,900 women and girls that die each year due to pregnancy-related complications. Additionally, another 28,000 to 117,000 women and girls will suffer from disabilities caused by complications during pregnancy and childbirth each year. (Maternal and Neonatal Program Effort Index: Ghana)

Directly Productive Assets:

- Customary laws continue to dictate the distribution of land, inheritance and family matters in Ghana. These laws can pose significant barriers to women's ability to gain economic independence, access to and ownership of land and property.
- Gender-neutral policies do not take appropriate measures to advance women's access to education, formal sector employment and credit.

Social Capital Assets:

- In both traditional authority structures and in the public service sector, women are largely under represented in positions of decision-making and authority.

Lack of education and male dominance in the home often leave women uninformed about their basic human rights.

3.2 Inheritance Laws and Practices

In Ghana, property ownership and inheritance are regulated in practice by customary laws although statutory laws exist. These customary laws have greater influence than statutory law when it comes to women's housing and land rights. Some of these customary laws effectively deprive women of property rights, particularly land and housing rights both in their natal and marital clans.

Customary laws, commonly based on traditionally conceived gender distinctions, give men greater rights than women over property. For example, many widows in Ghana (particularly in some parts of Northern and Southern Ghana) are excluded from inheriting their marital home, as women are perceived to not be worthy and/or able to own property in their own right. According to statutory law - the Intestate Succession Law, 1985 (PNDCL 111), a surviving spouse inherits about 70% of the whole estate if there are no children and nearly 90% with children. However, in practice, when men die, widows are frequently evicted from their marital

³⁴ World Bank. Ghana Strategic Gender Country Assessment 14 January 2002.
<http://siteresources.worldbank.org/EXTAFRREGTOPGENDER/Resources/GhanaCGA-R.pdf>

lands and homes by their in-laws who disregard statutory laws as they are steeped in custom and take these properties in addition to other property, such as livestock and household goods. In many cases, women in Ghana are ignorant of their legal rights to own and inherit houses, land or other property. Those women who are aware of their rights frequently do not know that legal means exist through which they can claim these rights. Access to legal assistance is frequently blocked as a result of high cost or simple unavailability. Most women pressing property, land or housing claims will face intense societal and familial pressure to desist, and in most cases this pressure will prevail to defeat the claim.

3.3 Allegations of Witchcraft

Some women in Northern Ghana are accused of witchcraft. Many victims are widows or women with property who have raised rights claims in their homes or communities. To silence them and/or to take over their husband's property they are accused of witchcraft or involvement in the death of their husbands and banished from the community. Such women begin life all over under difficult conditions and are suspects in any deaths in the community or families. In most cases, such women are sent to witch camps without their consent and left there for years disassociating them from the rest of the community.

3.4 Women's Housing Rights and Domestic Violence

Domestic violence is also a violation of the right to adequate housing as the definition of adequate housing it is to be safe and secure, and allow persons to live in dignity, as set out *inter alia* in General Comment No 4, International Covenant on Economic, Social and Cultural Rights. Many women in Ghana are subjected to violence in their homes and are therefore unable to realize a safe and secure home, and are denied their right to live in dignity. Furthermore, most Ghanaian women's lack of housing and land ownership and control is directly linked with domestic violence, as it contributes to women's low social status and their vulnerability to poverty. Women who do not own property are far less likely to realize economic empowerment and as such, are vulnerable to abuses. The prevalence of such abuses in Ghana gave rise to the Domestic Violence Bill which has now been promulgated into law in 2007 – The Domestic Violence Act, 2007 (Act 732). Although the promulgation of this law is a major step in the struggle to secure the fundamental rights of women and other vulnerable groups in Ghana, Ghanaian women are yet to see the structures required to be put in place by the government for its proper implementation. This is a great concern for most women and civil society organizations.

3.5 Women's Housing Rights and HIV/AIDS

Poor social and economic conditions as well as gender imbalances in Ghana put pressure on women particularly to support their families, to the exclusion of any other claims, regardless of the impact on dignity arising from this pressure. This fact pushes women -- especially those living in rural Ghana -- to migrate to urban slum communities. This mostly occurs when they have been chased out of their husband houses by family members of their husbands or lose properties they might have acquired jointly with the husbands as a result of the death of their husbands. The effects of such occurrences are that most women's human rights -- including economic and social rights -- are abused. Such women are often forced to live in slums and other degrading conditions which impacts negatively on their health and their entire families especially where there are children involved. Some are forced into prostitution. Such women cannot even negotiate safe sex. Crimes such as rape and other sexual abuse are perpetrated daily. These conditions are a breeding ground for the spread of HIV/AIDS. In addition, women widowed and children orphaned by HIV/AIDS are stripped of property such as houses and/or land.

Abena's Story

Abena is a lady who sells food from a kiosk in Ashaiman (one of the slums in Ghana in the Greater Accra Region. This is also where she sleeps. The kiosk serves as both her means of income and her place of residence, which she shares with her four children and two sisters. There is no piped water, toilet or bath; they must use outside facilities. Abena's landlord makes her pay two years rent in advance totaling 120 Ghana Cedis (aprox. 140 USD). Abena does not make enough money in petty trading to pay this and has to borrow money from family and friends. She says she is always worried about being evicted because the landlord threatens to raise the rent and there are other people who will pay what he is asking.

Interview by Tricia Pusker – Intern, COHRE, July 2007

VI. CONCLUSION

The Government of Ghana has made affordable and accessible housing a priority. However, these priorities have not been realised due to flawed policies, imperfect implementation and a lack of effective monitoring mechanisms. In some cases, it is believed that the reason for these flaws is due to lack of political will. Others have pointed at poor infrastructure and a disjointed system of actors that have failed to collaborate within one comprehensive approach. This point was emphasized in a 2005 Conference on Promoting Economic Development and Stabilization through Affordable Housing in Ghana with comments by key ministers, developers and NGOs working on these issues. Honorable Cecilia Dapaah, the Deputy Minister of Works and Housing in Ghana in 2007 stated that NGOs and community organizations need to work together with the government, lending institutions and the private sector to improve the conditions of informal settlements.³⁵

In addition, limited access to productive, human and social capital assets undoubtedly perpetuates gender inequality and barriers to women in the Ghanaian rental market. In such cases, when women lack ownership, control or access to housing, land and property they, are denied the ability to live full and meaningful lives along with their families and communities, especially when in situations of conflict, disaster, HIV/AIDS, government corruption and a lack of economic opportunities.³⁶

Lack of access to education for employment, inadequate healthcare and limited financial assistance through the government and banks perpetuates the cycle of inequality and poverty that diminishes women's opportunities to have stable housing emerge that promotes community, government, and private sector participation.³⁷

³⁵ On Promoting Economic Development and Stabilization through Affordable Housing in Ghana, Report for Cooperative Housing Foundation (CHF) Conference 6 April 2005, Accra.
<http://www.sdinet.org/reports/rep57.htm>.

³⁶ Huairou Commission Website: Women, Land and Housing, 2007
<http://www.huairou.org/campaigns/land/index.html>.

³⁷ On Promoting Economic Development and Stabilization through Affordable Housing in Ghana, Report for Cooperative Housing Foundation (CHF) Conference 6 April 2005, Accra.
<http://www.sdinet.org/reports/rep57.htm>.

V. RECOMMENDATIONS

The following sections outline recommendations that apply to the issues discussed above.

1. Further research into the efficacy of particular aspects of Ghana's housing policies and laws should be conducted by the Law Reform Commission in conjunction with other institutions including human rights organisations. Particularly, an examination of the Rent Control Department, its strengths and weaknesses, is necessary in determining more fully what provisions should be made in the Act to provide for better enforcement. Additional interviews with tenants and landlords should also be sought to gain greater insight into the shortcomings of the current Act. Workshops in both urban and rural regions are highly recommended to collect this information. Also, best practices and country-based strategies should be explored that have been successful in increasing the right to housing especially for women.
2. The practice of landlords asking for exorbitant advanced rent payments must be addressed specifically in a provision in the new Rent Act. While the previous Act allows for landlords to ask for six months rent in advance, the Commission should consider a solution that would be fair to both landlords and tenants.
3. Research regarding the Land Administration Project (LAP) and the connection between land restructuring and the rental market is also needed to better inform and influence the review of the Rent Act and other housing policies. Because land and housing markets are significantly interrelated, it should be a priority to have a liaison from either government and/or civil society to work in the context of both the LAP and housing laws and policies.
4. The government should adopt a new and effective Rent Act. The elections next year make the passage of the bill even more urgent, so that it does not get lost in the transition of governments.
5. Adequate resources and training should be made available to the Ministry of Housing and the Rent Control Offices. Offices should take advantage of technological resources and training in order to create computerized records, databases and streamlined documents. In some of the offices, the computers were available but administrators were not trained to utilize them. As noted above, additional staff needs to be recruited particularly with professional experience in law or housing issues.
6. District-level Rent Control Offices should be created to lessen the burden on the regional offices and to create a more localized presence to address the issues and needs of landlords and tenants. Such offices will only work effectively if they are adequately staffed and provided with appropriate resources.
7. While the issue of accountability is debated among housing ministers, rent officers, NGO representatives and tenants, it is clear that more accountability would not be harmful. For a more adequately enforced Rent Act, an Oversight Board with representatives from government, from the Ministry of Housing and civil society could be advantageous in monitoring and evaluating the implementation of the new Rent Act and to resolve operational issues as they arise.
8. A gender perspective and rights-based approach must also be utilized in every possible stage of the implementation of the Rent Act and other policies. This should include training on women's issues and housing rights that is mandatory for administrators at every level within the Ministry of Housing and Rent Control Offices. Furthermore, relationships with grassroots organizations and civil society groups working on these

- issues should be established and maintained so that information can be shared regarding best practices and patterns of violations found to be occurring.³⁸
9. A national campaign to educate Ghanaians on the changes in the Rent Act should be implemented in every region of Ghana. A campaign similar to that which informed Ghanaians about the revaluation of the Ghana Cedi would raise large-scale awareness about the changes in the Rent Act and promote public discourse that could ultimately improve implementation of the act. Posters, television and radio advertisements were all successfully utilized in the revaluation campaign and likewise, would reach many Ghanaians regarding the Rent Act.
 10. Education and training at the grassroots level has been imperative for advancing women's rights throughout the country and should also be considered as an important tool for raising awareness of the new Rent Act. Informational sessions that target landlords, tenants as well as police officers, judges and other members of the community could be useful in enhancing Ghanaians' knowledge of the Rent Act, their housing rights and could ultimately result in the reduction of violations.
 11. Pamphlets should be created and disseminated as widely as possible through government offices and NGOs to explain the changes in the Rent Act, as well as important resources individuals can utilize if they experience violations or injustices in the rental housing market. Such pamphlets should consider a gender perspective and human rights issues. Also, pamphlets should be made available in multiple languages with the intent to distribute such materials to rural areas and marginalized populations that may not be reached by a national campaign. Other mechanisms should also be considered for populations that are not literate and research should be conducted to identify best practice approaches to these initiatives.
 12. The government should ensure that an eviction policy is designed and implemented to protect slum dwellers on their right to housing and to provide guidelines for local authorities to follow where evictions may be unavoidable.
 13. Now that the Domestic Violence Act has been passed, the government should put structures and adequate resources in place to ensure proper implementation of this law.
 14. The government should conduct investigations into the allegations of women as witches in Northern Ghana and sensitize the community to put an end to banishing women from their communities. Also, women who have been kept in witch camps should be released and integrated again into their communities.
 15. The government should embark on a nationwide campaign on the Intestate Succession Law, 1985 (PNDCL 111) which regulates the distribution of property when one dies intestate so that people will not resort to discriminatory customary practices to distribute property of a deceased person where the person dies intestate. Also, the endemic problem of gender discrimination should be addressed: Laws protecting women against discrimination should be debated, enacted and enforced to end discriminatory practices such as disinheritance and property ownership.
 16. The government should afford communities in slums and informal settlements with affordable and adequate housing. Also, it should provide infrastructure including but not

³⁸ Interviews with participant by COHRE, particularly from NGOs have found that educating women, as well as police officers, judges, and other members of the community has been key in reducing abuse against women and resistance to women's social and economic advancement in society. In addition, it has also been crucial to advocate for strong policies that protect women's rights and are proactive in fulfilling women's rights to economic security, land, housing, education and health.

necessarily limited to roads, health facilities, proper sewerage pipes, piped water and public toilets.

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