



## Women and Housing Rights ISSUE BRIEF

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### Women and Housing Rights: Basic Human Right Standards

Human rights apply to everyone, everywhere, regardless of sex, race, religion or any other distinction or status. The human right to adequate housing is fundamental to living a life with dignity. Yet, throughout the world, we continue to see grave and massive violations of the right to adequate housing; violations which themselves almost

invariably lead to other serious human rights violations. Women suffer disproportionately from violations of their right to adequate housing, and this in turn affects their enjoyment of their rights to food, water, sanitation, health, education and security of person.

The right to adequate housing is enshrined in Article 25(1) of the Universal Declaration of Human Rights and Article 11(1) of the International Covenant on Economic, Social and Cultural Rights. The Universal Declaration of Human Rights recognised in 1948 that everyone has the right to an adequate



## Women and Housing Rights in International Human Rights Law

standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation, and to the continuous improvement of living



conditions. General Comment No. 4 on the right to adequate housing, adopted by the United Nations

Committee on Economic, Social and Cultural Rights is the most comprehensive and authoritative legal interpretation of the human right to adequate housing to date, as it is meant to give definition to the rights and obligations



## Women's Rights to Equality and Non-Discrimination

# Women and Housing Rights:

**Women have a rights to gender equality, and to live lives free of discrimination based on gender.**



*Gender discrimination* refers to the systematic,

unfavorable treatment of individuals on the basis of their gender that denies them rights, opportunities or resources; it is a difference in treatment of people based their gender. *Equality* between women and men

(gender equality) refers to the equal rights, responsibilities and opportunities of women and men and girls and boys.

*Gender equality* also implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men. Gender equality is not a 'women's issue' but should concern and fully engage men as well as women.



articulated in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) relevant to housing. Through this General Comment, the Committee puts forth the view that the right to adequate housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof

over one's head or with views defining shelter exclusively as a commodity. Rather, it notes that the right to adequate housing should be seen holistically, encompassing the right to live somewhere in security, peace and dignity.

While the international community has long understood the right to adequate housing to be a fundamental human right, and while there now exist several international instruments which recognise and protect housing rights, much work remains to make the full enjoyment housing rights a reality for the world's poor, including for women.

## Basic Human Rights Standards

Women confront gender-based discrimination in numerous aspects of housing, including policy development; management and control of family assets; and ability to own, inherit and possess property. Equality and non-discrimination are bedrock principles on which advocacy on behalf of women's equal housing, land and property rights is itself premised. Policies and laws that do not recognise women's unique needs and do not give emphasis to women's equality also violate women's rights to adequate housing.



### Why Being 'Gender Neutral' is not Enough

**Gender neutral** is a term used to describe an approach to planning or policy development



which treats women and men as if they are homogenous and does not take into consideration their different needs, social positions and roles. Experience has shown that gender neutral planning often addresses only the needs of the dominant group, and does not make effective change for women.



## Women's Independent Access to Adequate Housing

**For women in particular,** housing rights are intimately connected to their security, health, and well being. If they are unable to fully enjoy their housing rights, women cannot be the architects of their own destiny, they cannot exercise true independence, and they become vulnerable to a myriad other human rights violations. Throughout the world, securing women's rights to housing and land is fundamental to improving women's status, and



their lives. To achieve this, it is important for women's right to be recognised and secured independently, so that their housing security is not dependent on their relationship with a male. Only by gaining this autonomy will women be truly able to enjoy their right to adequate housing on the basis of equality.

# Why Does Gender Matter?

## Women and Security of Tenure

**Security of tenure** encompasses the right to own, inherit, rent, lease and remain on one's land or in one's house and protection from forced eviction. For women, security of tenure is often especially precarious because women may not be able to independently access their homes and the land on which they live. Tenure is considered secure only if it protected in law (including constitutional guarantees), as

opposed to reliance on mere custom, tradition, or the whims of governmental authorities.

For women, tenure security is linked to economic security and survival; that is, loss of tenure not only means loss of housing, but also often loss of livelihood. Tenure insecurity means exclusion from ownership, access and control over housing and land, as well as exclusion from the processes by which rights to housing and land are allocated, secured and enforced/protected.



## The Links Between Housing Security and Violence

**Women often endure** gender-based violence within various contexts and housing insecurity contributes to and exacerbates women's vulnerability to violence. Violence against women is a universal problem that manifests itself in different forms in every country and culture. In all corners of the world, victims of domestic violence face the stark choice of either living on the street or being beaten by a partner. In many cases, victims of domestic violence have difficulty access-

ing alternative housing because of lack of domestic violence shelters and transitional housing programmes.

Forced evictions also represent a brutal violation of the right to adequate housing, and have particular ramifications for women. In the midst of the violence and chaos which often accompanies forced evictions, private actors and State security forces, including the police, often perpetrate acts of physical and sexual abuse and harassment against women and girls.



## Women's Rights to Access and Control over Land

# Understanding the Connections to Housing Rights

**In many developing countries,** access to land and natural resources forms the basis of social, political and economic well-being, and is fundamental to



housing security. Women's relationship to the home and the land are unique, and violations of that relationship have consequences for women which are similarly unique. Lessons from various land reform pro-

cesses demonstrate that women are often excluded as beneficiaries of agrarian land reform. The continuous disregard for joint ownership, as well as single female heads of households, contributes to the under-representation of women as beneficiaries of agrarian land reform. Proactive measures must consider gender equality as a *specific and central objective* of land reform.



## Women’s Housing and Land Rights within the Context of HIV/AIDS

**According to UNAIDS,** women comprise over 50 per cent of the total number of HIV/AIDS infected individuals, yet globally they possess under 15 per cent of the world’s land, and about 1 to 2 per cent of land titles. In certain States, girls are much more vulnerable to HIV infection than boys. Certain categories of women are also particularly vulnerable to



infection, such as impoverished women, sex workers, minority groups, refugees and the internally displaced. One of the greatest obstacles HIV/AIDS infected women is their inability to secure housing, land and property. This results in their impoverishment, particularly in cultures which may humiliate or shun HIV/AIDS infected women and girls. In many cases, subsequent to the HIV/AIDS related deaths of male partners or disclosure of their HIV/AIDS status, women are divested of their marital property, livelihoods, and at times even their children, by in-laws who forcibly evict them from their homes and lands.



## Women’s Access to Financial Resources for Housing

# Current Issues in Women’s Housing Rights:

**Gender biased policies** in financing generally, and housing in particular, are further structural barriers to women’s access to housing, land and property. Rules and procedures of financial institutions for loans, mortgages and other forms of credit in both the formal and informal sectors may disadvantage women in acquiring credit for housing and other types of investment in the housing sector.

Lending institutions make gender-biased assumptions regarding women’s literacy levels and ability to repay loans. Financial



institutions are usually unlikely to give loans to low-income women, or have income requirements such as

large collateral, requirements of title, long-term repayment and proof of income that disqualify and ultimately discriminate against poor women.



Research has clearly shown that when women's housing rights are respected and protected – including when women and girls are able to inherit and control housing, land and property – women and girls are better able to cope with the detrimental effects of HIV/AIDS. Housing security leads to better living conditions, access to livelihood and access to education.

*“...my husband as I talk now is admitted in this same hospital, ...I cannot even conceive the idea of discussing the property with him now...since our status was known to our children, the two and the eldest among them have shunned us and moved away...I am afraid they might come to chase me out the house once he is gone..”*

**-Testimony provided to COHRE by a woman living with HIV in Ghana**

## Empowering Standards and Strategies



### Women and the Right to Water and Sanitation

**In most of the world,** gender roles demand that women spend a great deal of time in the home, nurturing children and caring for the needs of their families. Household responsibilities also require women and girls to attend to various household chores, including providing, and using, water for a variety of purposes. Moreover, because women and girls are usually responsible for collecting water for the family's use, regardless of the distance,

they may be subject to increased risk of gender-based violence as they venture out in search of water.



#### General Comment

No. 15 of the United Nations Committee on Economic, Social and Cultural Rights on the right to water notes that States should take steps to ensure that women are not excluded from decision-making processes concerning water resources and entitlements. The disproportionate burden women bear in the collection of water should be alleviated.



## Women and the Rights to *de Facto* and *de Jure* Equality

**Substantive gender equality** entails that rights must be interpreted and implemented in a manner that ensures to women equal exercise and enjoyment of their rights. Substantively equal enjoyment of rights cannot be achieved through the mere passage of laws or promulgation of policies that are gender-neutral on their face. *De jure equality* (i.e. in law) does not, by itself, provide *de facto* equality. *De facto equality* (i.e. in fact or in practice), or substantive equality, requires that rights be interpreted, and that policies and

programs be designed in ways that take women's socially constructed disadvantage into account, that secure for women the equal benefit, in real terms, of laws and measures, and that provide equality for women in their material conditions.



## The Human Right to Adequate Housing:



### Location

**Housing must be situated** so as to allow access to employment options, health care services, schools, childcare centres and other social facilities. *The location of housing is especially vital for women to allow them the opportunities to fulfil other fundamental rights and achieve gender equality.*



### Cultural Adequacy

**Housing must allow for the expression of cultural identity** and recognise the cultural diversity of the world's population. *Women must be given the chance to effectively participate the planning of housing to ensure a reflection of their cultural identity, and women must also be able to have a say in the creation and interpretation of cultural norms related to housing.*





## Security of Tenure

**General Comment No. 4** of the UN Committee on Economic, Social and Cultural Rights on adequate housing stipulates 7 elements comprising the right to adequate housing. First among these is the right to security of tenure. Secure tenure protects people against arbitrary forced eviction, harassment and other threats. *Tenure security for women is often dependent upon their relationship to a male. Victims of domestic violence, without legal claim in the home and facing obstacles to obtaining housing on their own, must often face the choice of homelessness or remaining prisoners of violence.*



## Availability of Services

**Adequate housing requires** access to potable water, energy for cooking, heating and lighting, sanitation, washing facilities, food storage, refuse disposal, drainage and emergency services. When these services are unavailable, it places a disproportionate burden on the shoulders of women. *The importance of the proximate availability of these services is clear, considering the reality of many women's daily lives, often bearing the primary responsibility for the care of household, children and other family or community members.*



## Affordability, Habitability and Accessibility

# Ensuring a Gender-Sensitive Approach

**For housing to be affordable,** the amount a person or family pays for their housing must not be so high that it threatens or compromises the attainment and satisfaction of other basic needs. *This provision must be interpreted so that women, often economically marginalised, are able to afford adequate housing through appropriate credit and financing schemes.* For housing to be habitable, inhabitants must be ensured adequate space and protection against the elements and threats

to health. *In this respect, women must also be protected from domestic violence, a clear threat to their wellbeing.* For housing to be accessible, it must be accessible to disadvantaged and marginalised groups. *Women are also a traditionally disadvantaged group vis-à-vis housing, due to societal and cultural discrimination and subordination. Women with disabilities or HIV/AIDS are even further marginalised. As such, States' must undertake specific measures to address the needs of specific groups of women.*

**In the Americas**, the American Convention on Human Rights recognises the right of non-discrimination on the basis of sex (Article 1), as well as the rights to property (Article 21) and privacy (Article 11). Also in the Inter-American system, the Convention of Belém do Pará is the sole legally binding international instrument on violence against women. It is a significant treaty because it grants women a right of petition the Inter-American Commission on Human Rights on issues of gender-based violence. The case of *Maria Eugenia Morales de Sierra v. Guatemala* dealt, *inter alia*, with



## Women and Housing Rights in the Inter-American System

the issue of the property rights of married women. In this case, the Commission found that Guatemala's national laws subordinating a wife's control of



jointly held property to that of her husband was a violation of Guatemala's human rights obligations

under the American Convention. According to the Commission, Article 1 of the American Convention imposes negative and positive obligations on the State, meaning that the State must take proactive steps to ensure women's equality in practice.



## Women and Housing Rights in the League of Arab States

# Regional Human Rights Standards

### The revised Arab Charter on



Human Rights protects civil, political, economic, social and cultural rights. It upholds the

right to non-discrimination, the right to equal treatment, and the right to privacy. The revised Charter states: "Men and women have equal human dignity and equal rights and obligations in the framework of the positive discrimination

established in favour of women by the Islamic Shariah ...

Accordingly, each State Party pledges to take all the requisite measures to guarantee equal opportunities and effective equality between men and women in the enjoyment of all the rights set out in this Charter." The revised Charter contains a provision on the right to own property (Article 31) and the right to housing (Article 38).



**The African Charter** on Human and People’s Rights, stipulates that the rights enshrined within it apply to all persons regardless of sex, that all are entitled to equality before the law, and that all are obliged to treat others without discrimination. The Protocol to the African Charter on Human and People’s Rights on the



## Women and Housing Rights in the African System

Rights of Women in Africa obliges States Parties to take all appropriate measures to promote women’s access to and control over productive resources such as land and guarantee their right to property (Article 19), articulates the rights of widows in terms of treatment, custody of children, and remarriage (Article 20), and stipulates that “a widow shall have the right to an equitable share in the inheritance of the property of her husband....” (Article 21).

# in Support of Women’s Housing Rights



## Women and Housing Rights in the European System

**The Charter of Fundamental Rights** of the European Union contains numerous equality and non-discrimination provisions (Articles 20, 21 and 23) as well as a clause on the right to housing (Article 34 (3)). The European Social Charter (revised) also underscores the right of all persons to non-discrimination and contains a specific provision on the right to housing (Article 31).



## About Us



**COHRE’s mission is to ensure the full enjoyment of the human right to adequate housing for everyone, everywhere, including preventing forced evictions of persons, families and communities from their homes or lands.**



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