

The historical struggles of property owners, intellectuals, colonists, workers, women, national minorities and anti-colonial campaigners all contributed to the development of the contemporary conception of human rights. The discourse of rights derives from classical Western philosophy, Roman law, medieval Christianity and modern liberal and socialist ideologies. The idea of human rights is, however, rooted in a set of fundamental moral and religious beliefs that are far from exclusively Western. These beliefs were developed into conceptions of rights in response to tyrannical government and oppressive social and economic conditions that are not particularly Western. The human rights movement has been global since the conditions for global social movements came into being. The idea and the specification of human rights have always been controversial in theory and practice. They have evolved as men and women have struggled for a life of dignity under changing conditions. This struggle will continue, globally.

HOUSING, THE RIGHT TO ADEQUATE

Over the past two decades, the human right to adequate housing has been consistently reaf-

firmed as a distinct human right by various bodies in the **UNITED NATIONS** system, numerous national constitutions and legislations, and civil society organisations across the world. It also found repeated recognition as a fundamental human right in the Istanbul Declaration and the Habitat Agenda, resulting from the World Conference on Human Settlements (1996), with states reaffirming 'our commitment to the full and progressive realisation of the right to adequate housing, as provided for in the international instruments'. In spite of this welcome acknowledgement, the right to adequate housing remains unrealised for the vast majority of poor and vulnerable people and communities across the world.

Indeed, it is estimated that 600 million urban dwellers and over 1 billion rural people live in overcrowded and poor quality housing without adequate water, sanitation and drainage or garbage collection. An additional 100 million people are essentially homeless, being forced to live with no shelter. Statistics, however, do not fully capture the global dimensions of inadequate and insecure housing. Consider, for example, just some of the types of distressed housing in which people and communities are forced to live across the world: slums and squatter settlements, makeshift housing, old buses, shipping containers, pavements, railway platforms and alongside railway tracks, streets and roadside embankments, cellars, staircases, rooftops, lift enclosures, cages, cardboard boxes, plastic sheets and aluminium and tin shelters.

The emergence and persistence of economic **GLOBALISATION** has limited the capacity of states to provide adequate resources for fulfilling **ECONOMIC, SOCIAL and CULTURAL RIGHTS**, including the right to housing. The attendant reliance on privatisation of land and civic services, growing speculation of housing and land and the widening gap between income groups have all contributed towards increasing the number of people living in inadequate and insecure housing and living conditions, including the millions who are homeless and landless.

If we acknowledge this global reality and the affront to the dignity of people and entire communities that such distressed housing and living conditions represent, it is clear that only a human rights paradigm, which includes a

housing and land rights approach, can offer the radical and systemic changes that are necessary to solve this global crisis. Such a focus on human rights is all the more critical as we are faced with growing inequality, poverty and social exclusion. The human rights approach enables a sharper critique of government responsibility and provides benchmarks for interventions by all sectors of society, including those marginalised and suffering from discrimination.

Since the proclamation of the **UNIVERSAL DECLARATION OF HUMAN RIGHTS** in 1948, the right to adequate housing has found explicit recognition in a wide range of international instruments. On the basis of the provisions established in the UDHR, the right to adequate housing was further elaborated and reaffirmed in the **INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS** in 1966. Article 11.1 of the Covenant states that: 'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.'

The right to adequate housing is also recognised in several other international instruments that have focused on the need to protect the rights of particular groups such as in the **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN** (1979), the **CONVENTION ON THE RIGHTS OF THE CHILD** (1989) and the **INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**.

Issues related to the right to adequate housing were also highlighted in declarations and programmes of action adopted by several of the United Nations global conferences and summits held during the 1990s, including Agenda 21 adopted at the United Nations Conference on Environment and Development (1992), the Copenhagen Declaration and the Programme of Action of the World Summit for Social Development

(1995), the Beijing Declaration and Platform for Action of the Fourth World Conference on Women (1995) and the Habitat Agenda of the second United Nations Conference on Human Settlements (Habitat II) (1996).

During the past two decades, numerous UN bodies and civil society groups have made significant efforts to clarify and provide a broad interpretation to the content of the right to adequate housing. The most comprehensive interpretation has been made by the Committee on Economic, Social and Cultural Rights, in its General Comment no. 4 on the right to adequate housing. The General Comment reflects both the holistic conception of the right and the value it gains from the aspect of dignity and adequacy. Based on this broad interpretation, the General Comment identified seven aspects of the right to housing that determine 'adequacy': (a) legal security of tenure including legal protection against forced evictions; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility for disadvantaged groups; (f) location; and (g) cultural adequacy.

Based on, and inspired by, this interpretation and the strident work of civil society groups worldwide to capture the grassroots-level experiences and aspirations of the right to housing, I have made an attempt to define the human right to adequate housing as 'the right of every woman, man, child and youth to gain and sustain a secure home and community in which to live in peace and dignity'. Notwithstanding the wide legal recognition of the right to adequate housing, it is, however, a fact that the norms and principles contained in international instruments have not yet been sufficiently reflected in national policy frameworks in the housing sector or transformed into operational measures. Some have even argued that the right to adequate housing – and other economic, social and cultural rights – is not enforceable but aspirational, since it is claimed these rights are not justiciable and their fulfilment depends on the availability of public resources that many countries do not have.

Proper understanding of the nature of state obligation is, therefore, critical in dispelling such misconceptions. The principles that permeate the international human rights instruments offer an invaluable guide to

understanding the scope of the right to housing. Indivisibility of human rights requires that the right to housing has to be seen as a congruent right along with the right to security of the person and home, the right to participation, the right to freedom of movement, the right to information, the right to water and the right to be free from inhuman and degrading treatment. Gender equality indicates that women and men have equal rights to an adequate standard of living, which includes the right to housing. Non-discrimination calls for affirmative action and the retention of subsidies for vulnerable people and communities to stem the growing phenomenon of segregation and ghettoisation in terms of housing and living conditions and the attendant denial of civic services. Non-retrogression requires that there is no stepping back from progress made in societies towards improving housing and living conditions, including to ensure that judicious legislation and policies are not bargained away. The right to a remedy requires that the right to housing is justiciable and that those who are responsible for guaranteeing this right demonstrate political and economic accountability.

The misconceptions that surround the right to housing can also be removed by understanding what the right to housing is not. Work carried out by UN human rights bodies has clarified that the obligations of states do not imply: that the state is required to build housing for the entire population; that housing is to be provided free of charge by the state to all who request it; that the state must necessarily fulfil all aspects of this right immediately upon assuming duties to do so; that the state should exclusively entrust either itself or the unregulated market to ensuring this right to all and that this right will manifest itself in precisely the same manner in all circumstances or locations.

The human rights approach to housing also needs to be understood from the perspective of the rights of specific groups. Inadequate and insecure housing and living conditions such as overcrowding, indoor pollution, precarious housing, lack of water and electricity and inadequate building materials affect women to a larger extent than men. Women living in extreme poverty face a much greater risk of becoming homeless or finding

conditions. The horrific lack of adequate housing, particularly for women, is a strong indicator of the extent to which governments across the world are failing their people.

Given these dire conditions, it is heartening to see that more and more civil society initiatives across the world, including large scale local and national campaigns and movements, are taking up the human right to adequate housing as a rallying demand. Recent national constitutions, such as those of South Africa and Kenya, are also recognizing this right as fundamental. Given, however, the manifold threats to this essential right as outlined above, it is clear that even more strident civil society action is required. Such action needs to demonstrate alternative solutions and ensure human rights education at all levels of society such that people and communities can know and claim their human rights. The moral, ethical and legal basis of all human rights, in particular economic, social and cultural rights, as contained in the international human rights instruments, must form the organising principles for all policy and advocacy interventions by governments and civil society alike. Such a clear direction in policy formulation and action would necessarily require, as a priority, land and wealth redistribution, including urban and rural land reform. Only then will we see an improvement in the housing and living conditions of millions across the world.

WEBSITES

www.unhchr.ch/housing

www.hlrn.org

www.choike.org

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www.unhabitat.org

<http://home.mweb.co.za/hi/hic/>

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