

Methodology for Monitoring the Human Right to Adequate Housing

The Housing and Land Rights Network ‘Toolkit’

Introduction

The Housing and Land Rights Network ‘[Toolkit](#)’ seeks to put the legal specificity of the human right to adequate housing into your hands so that, together, we can make it real. The way to begin that process from an informed and authoritative position is by applying the meaning and contents of the human right through monitoring its implementation. To that end, this ‘Toolkit’ takes the user through the logical steps of the monitor of economic, social and cultural rights. It guides you, the user, to know the normative content (‘**Entitlements**’) of the human right to adequate housing. It also provides for you the authoritative international legal basis (‘**Legal sources**’) as well as the popular claims (‘**Popular sources**’) to housing rights. By organizing your monitoring process along the legally recognized elements (entitlements) of the human right, you can identify how your issue relates to the right as it is recognized in the various levels of the legal system, and how that right is affected by actual national policies and practices. By comparing reality to the theoretical standards, you can then determine the gaps and obstacles to implementation, knowing precisely who is affected and who is responsible for providing remedy.

Experience at upholding economic/social/cultural rights tells us that human rights monitoring to enumerate violations is a fundamental task, but only a part of what is required to implement human rights and well-being. The rest lies in **posing and implementing the needed solutions**. That forms another essential purpose of the HLRN ‘Toolkit.’

Housing as a human right

The concept of housing has constantly undergone development in recognition of the basic elements that constitute it. Various legal and popular definitions have evolved over the years.

148 UN member States “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...”

International Covenant on Economic, Social and Cultural Rights, Article 11 (1966)

The right to adequate housing has been defined as the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.

[UN Special Rapporteur on adequate housing (2006)]

While the International Covenant on Economic, Social and Cultural Rights represents the most important international law instrument recognizing, guaranteeing and binding States to “realize progressively” the human right to adequate housing, its monitoring body, the Committee on Economic, Social and Cultural Rights (CESCR) has provided us with the legal meaning of ‘adequate housing’ as the normative content of the human right.

In the Committee’s view, the right to 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 views shelter exclusively as a commodity. Rather it should be seen as somewhere to live in security, peace and dignity....The right to adequate housing applies to everyone....certain aspects of the right that must be taken into account...They include the following:

- **Legal security of tenure**
- **Availability of services, materials, facilities and infrastructure**
- **Affordability**
- **Habitability**
- **Accessibility**
- **Location**
- **Cultural Adequacy**

Committee on Economic, Social and Cultural Rights, General Comment No. 4, ‘The Right to Adequate Housing’ (1991)

As the above definitions make clear, the right to housing is a multifaceted right. Clearly, understanding the human right to adequate housing necessarily entails several core entitlements. Some of these are recognized in international law as distinct human rights. We have termed these as ‘**congruent rights**.’ Some examples of congruent rights are the human right to information, the human right to privacy, and the human right to a safe and healthy environment.

Other entitlements also have been identified in this ‘Toolkit.’ Although have not been codified as distinct human rights in international law, nevertheless must be recognized practically as such and are crucial to the realization of human right to adequate housing. These are termed here as ‘**entitlements**,’ in parallel to those entitlements detailed in the CESCR’s General Comment No. 4. These include the entitlements of access to potable

water and to land. CESCR already has recognized the essential human right to water in its General Comment No. 15 of November 2002 (see details in this 'Toolkit'). The essential housing rights element of land remains uncoded to date. This is despite the fact that land is a basic need for survival. This need—and its human rights dimension—become clear in context, particularly as witnessed in the persistent deprivation of indigenous peoples, Palestinians and indigenous South Africans. The land, as contentious as it is, is a core element of identity, culture and livelihood. It is as fundamental a resource for realizing the human right to adequate housing as it is to the human right to adequate food (also Article 11 of ICESCR and the subject of CESCR General Comment No. 12).

Why this Toolkit?

Efforts to address the grave situation of housing, land rights and living conditions are constrained by the lack of a system for assessing the human rights dimensions. There is a dearth of indicators and benchmarks that could help to determine the extent of housing and land rights violations, or the extent to which these rights have been fulfilled. This toolkit is designed to fill the existing gaps in the field. The 'Toolkit' also seeks to **provide a formula and a guide for remedial and constructive action**.

While the human right to housing must be actualized at the local level, it is essential to make linkages between local, national and international action. Without such a live and symbiotic linkage through networking, solidarity and advocacy, it is difficult to imagine the dismal conditions improving. Universally applicable human rights instruments provide the framework and perspective for channelling common efforts toward a more-civilized society and a better world. This 'Toolkit' applies this framework to the practical field of housing and human settlements.

Scope and function

The HLRN 'Toolkit' is designed to serve primary functions and additional applications. The primary functions are essentially capacity building for the user and her/his community. It will provide you, the user, with relevant and practical information and tactical guidance for:

- Learning
- Reference
- Assessment
- Strategic planning

The 'Toolkit' will provide a practical basis for additional applications, including—but not limited to—the complementary tasks of:

- Litigation
- Advocacy
- Monitoring
- Media work
- Standard setting
- Social mobilization

- Cooperation with the UN system

Who can use this 'Toolkit'?

The primary user of this methodology is the young activist with a CBO or NGO, as well as their communities confronting problems in the housing rights sphere. With the help of the 'Toolkit,' such individuals would be able to work with communities at conducting either rapid, or more-in-depth assessments of their housing rights conditions. With such an individual in mind, the HLRN technical team producing the 'Toolkit' has sought to keep the language practical, although much of the text is derived from the international legal instruments.

Of course, the 'Toolkit' also can be useful to professionals in the technical fields, research institutes, policy makers, judges and all others concerned with problems solving and dispute resolution in the field of housing and human settlements. It has been designed also to meet their needs for legal authority and specificity.

How to use the 'Toolkit'

The 'Toolkit' will take you through ten logical steps, which coincide with the actual functions of human rights monitors. Of course, following all these steps thoroughly for each of the entitlements of the human right to adequate housing would require division of labour and long-term monitoring, especially for collecting needed data in both the short term and the long run.

The HLRN 'Toolkit' process differs from most other presentations of the human right to adequate housing in that it does not reiterate its general legal and moral affirmations. (For a good general compilation of international human rights instruments affirming the human right to housing, go to:

<http://www.ohchr.org/EN/Issues/Housing/Pages/InternationalStandards.aspx>.)

Instead, the applied methodology in this 'Toolkit' presents the more-specific and applied legal guidance and popular claims. This method builds on each of the entitlements of the right that CESCR has identified, in addition to the congruent rights to provide the following more-comprehensive list of entitlements of the human right to adequate housing:

1. **Security of tenure and freedom from dispossession**
2. **Public goods and services**
3. **Environmental goods and services (land and water)**
4. **Affordability**
5. **Habitability**
6. **Accessibility (physical)**
7. **Location**
8. **Cultural appropriateness**

- 9. Information and capacity building
- 10. Participation and self-expression
- 11. Resettlement and freedom of movement
- 12. Security (physical) and privacy

By your clicking on these '**Entitlements**,' each one is explained for in plain language (**Step 1**). Then you will be invited to delve into both the specific legal and popular sources that substantiate the claim to each entitlement of the human right (**Step 2**).

While remaining within your chosen housing rights entitlement, click on:

Legal sources and
Popular sources

Once each you have understood the concepts comprising the content of the human right to adequate housing with their moral arguments and legal authority, then you will be introduced to the meaning of the 'over-riding principles' that apply to human rights generally (**Step 3**), clickable on '**Over-riding principles**.' These are, namely:

- Self-determination;
- Non-discrimination;
- Gender equality;
- Rule of law;
- Progressive realization (non-retrogression/non-regressivity); and,
- International cooperation.

All principles are to be present in order for the eventual achievement of our goal of a better world. Moreover, they are the law.

You will be able to move forward to address a series of basic questions about the guarantees of each entitlement (**Step 4**). Clicking on '**Guarantees**' and following the narrative text completes the theoretical portion of the 'Toolkit' and prepares you for the assessment of the human right in its context.

At **Step 5**, you will begin to compare the theoretical standards and guarantees with reality for each entitlement. At that stage, you will be guided to ask yourself and supply answers to questions as to whether there are obstructions to the fulfillment of the human right to adequate housing in the context you are monitoring. To proceed to **Step 5**, click on '**Obstacles, impediments, barriers**' and follow the list of guiding questions to determine where the contradictions lie and, therefore, what are the problems that need to be addressed?

Your critical inquiry begins here. The human dimension is the core of this inquiry, so you will have to identify as precisely as possible the victims or the vulnerable persons or groups in your case or community (**Step 6**). Follow the screen appearing when you click on the '**The victims and vulnerable persons: the actors**' link. It will take you through the indispensable

inquiry about the persons whose human well-being is at stake. (Here you will also find practical tools for the victims to use in making their case, including a **Case documentation form** and a **Housing contents inventory form** for quantifying what often goes uncounted.) Very important to portraying the whole picture with the focus on the victims' experience is a methodology for quantifying losses and costs of a violation/deprivation, at **Step 7**. This '**Quantifying losses**' guide introduces the methodology for capturing the costs and quantifying the deprivation as much as possible. It will help you make the point that eviction, for example, deepens widens poverty. This step comes in stages: the instructive section that prepares you to apply the methodology, by clicking on '**Methodology**.' Then, to enter into the quantification process itself, which you can copy this quantification tool and download it into a separate Excel accounting file after opening the '**Loss Matrix**' link.

Step 8 will take you through a critical process of thoroughly identifying the duty holder(s) responsible for remedy in the case of a violation. To begin this critical process, click on '**Duty holder(s)**' within your chosen housing rights entitlement. Naturally, this exercise will help you direct your responses to the situation. Finally, **Step 9** offers you a menu of potential actions, following a strategic planning exercise to help you select the SMARTest intervention possible. (That is, actions that are 'specific,' 'measurable,' 'attainable,' 'reasoned/resources' and 'time bound'.)

Click on '**Action/solutions**' to avail yourself to the '**Strategic planning**' link and simple guide for selecting an action, then go to '**Action menu**' to find a recommended list with practical references to manuals, handbooks and documented experiences to apply in your own context.

No activity, planned or otherwise, can be truly instructive without evaluation and follow-up to determine if you have achieved the desired results. **Step 10** provides guidance for that with a view to ensuring that the achievement needs repeating or revisiting. It also will help you decide if the success can be replicated in another context. You will find this last step at the '**Evaluation and follow-up**' link, presenting processes at two levels: '**Evaluating the action**' and '**Following up the situation**.'

All together, your entire evaluation process for each entitlement of the human right to adequate housing will look like this:



| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|-------------|--------|------------------------|------------|--------------------|-----------------------------|----------------------|-------------|--------|--------------------------|
| Entitlement | Source | Over-riding principles | Guarantees | Threats, obstacles | Victimization vulnerability | Impact, consequences | Duty holder | Action | Evaluation and follow-up |

If you were to conduct a comprehensive review and evaluation of all entitlements of the human right to adequate housing in your chosen case, your process would follow the same ten steps replicated for each of the twelve entitlements. This rather cubical and more in-depth housing and land rights-monitoring exercise could be depicted as in the accompanying [Summary Chart](#).

The 'Toolkit' has been designed to be both flexible and comprehensive at the same time. You may choose to embark on the ambitious task of assessing an entire national housing policy with this methodology. If that is your goal, it might be difficult to achieve that from a housing rights framework without these tools. However, if your task is smaller, say, assessing a case of forced eviction, determining the type and amount of compensation to seek for eviction victims, or evaluating the case of a woman deprived of her equal inheritance rights, the 'Toolkit' also can serve all of those objectives neatly.

Once you have identified which entitlement(s) of the human right to adequate housing have been affected in your case or community, you, as the monitor and user of the HLRN 'Toolkit,' can simply select one or more entitlements to monitor and evaluate. If, for example, your case involves demolition of a shantytown, you may want to focus just on the housing rights entitlements 1 (security of tenure) and 11 (resettlement and freedom of movement). If your purpose is to assess the globalization consequences on housing in your country, you may wish to select entitlements 2 (public goods and services) and 4 (affordability) in the focused light of the over-riding principle of international cooperation.

Please know that the Housing and Land Rights Network office would be willing and able to assist you in utilizing this 'Toolkit,' or will be able to refer you on for further guidance. We look forward to your feedback and suggestions, but most especially, we hope to hear the stories of your monitoring and problem-posing successes at using your HLRN 'Toolkit.'

Go to the [TOOLKIT](#)