



Commemorating 20 Years of Housing and Land Rights Network (India) and the United Nations Housing Rapporteur Mandate

14 October 2020

Report of the Panel Discussion with UN Special Rapporteurs on Adequate Housing

Organized by Housing and Land Rights Network

I. Introduction

On 14 October 2020, Housing and Land Rights Network, India (HLRN) organized a historic event to commemorate 20 years of the founding of the organization as well as 20 years of the United Nations (UN) Housing Rapporteur Mandate. The event included a panel discussion with all four Special Rapporteurs on the Human Right to Adequate Housing (current and former) on the topic: **‘Global Challenges to the Human Right to Adequate Housing, Role of the UN and the Way Forward.’** Over 300 people from around the world attended this special event.

Panellists – Special Rapporteurs on the Right to Adequate Housing:

1. Mr Miloon Kothari (2000–2008)
2. Ms Raquel Rolnik (2008–2014)
3. Ms Leilani Farha (2014–2020)
4. Mr Balakrishnan Rajagopal (May 2020–)

Moderator:

Ms Shivani Chaudhry (Executive Director, Housing and Land Rights Network, New Delhi)

Structure of the Event:

1. Introduction
2. Twentieth Anniversary of Housing and Land Rights Network
3. Panel Discussion with UN Special Rapporteurs on the Right to Adequate Housing:
 - Major Contributions of the UN Housing Rapporteur Mandate
 - Greatest Challenges to Realization of the Human Right to Adequate Housing
 - Recommendations to Advance the Human Right to Adequate Housing
 - Open Discussion
4. Conclusion

II. Twentieth Anniversary of Housing and Land Rights Network (India)

Ms Shivani Chaudhry, Executive Director of HLRN, welcomed the panellists and webinar participants and briefed them about the history and work of the organization. Founded by Mr Miloon Kothari, the first Special Rapporteur on the Right to Adequate Housing, HLRN was established in New Delhi in 1999 to meet gaps in research and policy on issues related to land and housing in the region, and to build the conceptual understanding and normative content of the human rights to adequate housing and land, while promoting their realization. Ms Chaudhry thanked the HLRN staff, donors, partner organizations, local communities, and the Housing Rapporteurs for being an integral part of the organization's 20-year journey.

She reflected on the three main achievements of HLRN over the past 20 years:

1. Mainstreaming the human rights approach to housing

Housing and Land Rights Network has been instrumental in mainstreaming the human rights approach to housing in India, not just in work with the government at various levels but also with civil society, national human rights institutions, and local communities, including persons living in homelessness and inadequate housing conditions.

2. Creating avenues for affected communities to access human rights mechanisms

The organization has been successful in creating avenues for affected communities to access human rights mechanisms at the national and international levels. Housing and Land Rights Network has created a bridge for local communities to reach the UN human rights system. It has helped communities access relevant mechanisms, taken their voices to the UN, and helped bring international laws, guidelines, standards, concluding observations/recommendations of treaty bodies, and conference outcome documents to local communities. The organization has also been involved in extensive human rights education, publication, dissemination of standards and reports, and translation of key international standards into local languages.

3. Contributing to the development of global standards on housing and land rights

Housing and Land Rights Network has consistently contributed to the development of human rights standards at the international level, including at the UN. These include, *inter alia*, various declarations and guidelines, General Comments of the UN Committee on Economic, Social and Cultural Rights, as well as standards developed by the UN Housing Rapporteurs: Basic Principles and Guidelines on Development-based Evictions and Displacement; Guiding Principles on Security of Tenure for the Urban Poor; and, the Guidelines for the Implementation of the Right to Housing.

A short **slideshow** was then presented to give a visual glimpse into HLRN's world of work, including interventions with local communities, governments, and the United Nations. While addressing various issues related to housing and land, HLRN has always focused on the most marginalized and excluded individuals, groups, and communities, including homeless, landless, and inadequately-housed persons, and among them women, children, older persons, Dalits, Adivasis/Indigenous peoples, and persons with disabilities.

Ms Chaudhry emphasized that all that HLRN has done over the last 20 years has been possible with the contributions and support of many co-travellers, including the UN Housing Rapporteur Mandate; each Special Rapporteur has greatly helped in strengthening the organization's work.

III. Panel Discussion with the UN Housing Rapporteurs

Ms Chaudhry presented questions in three rounds for each Special Rapporteur to answer. In the first round, she asked each Housing Rapporteur to reflect on the major contributions of the mandate, and share a powerful memory or experience from their term. In the second round, the question pertained to identifying major challenges related to the realization of the human right to adequate housing globally. Finally, she asked each mandate holder to propose three recommendations for the way forward.

1) Major Contributions of the UN Housing Rapporteur Mandate

Mr Miloon Kothari

Mr Kothari began by congratulating HLRN on the completion of 20 years. According to him, the two main contributions of the UN Housing Rapporteur mandate have been the development of global standards on the right to housing and the country missions undertaken by the Special Rapporteurs.

The standards developed by Special Rapporteurs act as the primary operational instruments on implementing the right to housing around the world. These include the eviction guidelines, security of tenure principles, and strategies to implement the right to housing. These standards are a lasting legacy of the mandate. He mentioned how it is gratifying to see that the ‘Eviction Guidelines’ have become the current operational standard globally on development-based evictions and displacement, and have been used in multiple fora and influenced policy and law-making in a number of countries.

The second greatest legacy of the mandate has been the country missions. Though these are sometimes underrated in the UN system, they enable Rapporteurs to go to the field, speak to people, and take their testimonies, which is quite remarkable. Even people he met many years later, recall the critical role of the country missions, including helping to create avenues of communication between civil society and governments.

The mandate has helped highlight commonalities in structural issues that create the global housing crisis. It has also highlighted the critical relevance of the human right to adequate housing approach but also the great difficulty in implementing the right to housing. At the same time, it is encouraging to see the great resonance with the housing rights work around the world, especially from local communities.

Ms Raquel Rolnik

Ms Rolnik also congratulated HLRN on its twentieth anniversary and cited it as a great example of how powerful the relationship between UN mechanisms and grassroots action can be.

Reflecting on the Housing Rapporteur mandate, she stated that after 20 years of continuous work of the Special Rapporteurs, the idea that housing is a human right is now more included in the language and culture of local movements, and has entered into the public realm and public policy. She also mentioned how the right to housing approach is central to the political movement for change.

She reiterated the importance of the continuity between the work of different mandate holders. For example, the ‘Eviction Guidelines’ that Mr Kothari had worked on were very important as well as work done on the impacts of mega events. This work had been used by her, and the Guidelines had been translated into didactic material for global dissemination.

She stressed that one of the main contributions of the mandate has been to draw attention to the problem of housing as a global issue. Earlier, the issue of the lack of adequate housing was seen as a ‘third world/global south’ problem but not an issue of the centre of capitalism in North America and Europe. But the financial and mortgage crisis during her tenure, and her work on the financialization of housing, resulted in a shift in the Human Rights Council, and housing became more of a global issue.

Reflecting on her term, she stated that a moving and powerful aspect of the mandate was meeting people, going to their homes, and hearing them during the country missions. Particularly powerful for her personally was being the object of very harsh attacks from governments, especially the United Kingdom. At the end of her mandate, it was very clear that the neoliberal financialized model of housing policy was leading to a global crisis and she was grateful that this issue was taken up by Leilani Farha, the next Rapporteur.

Ms Leilani Farha

Ms Farha first thanked Ms Chaudhry on her tireless efforts, commitment, and all the support provided to the mandate during her tenure as Special Rapporteur.

Ms Farha mentioned that she commenced her work with the UN Housing Rapporteur Mandate by “standing on the shoulders of giants.” According to Ms Farha, advice given to her by Ms Raquel Rolnik perfectly sums up the contributions of the United Nations Housing Rapporteur Mandate: “The greatest contribution of the Special Rapporteur is to give voice or help give voice to the people who do not have a voice, to shed light on issues where there is no light being shed, and to expose to the international community what is happening on the ground.”

In addition to carrying forward the legacy of the former Special Rapporteurs, meeting so many people struggling and trying to claim their right to housing at the local levels, made her realize how important support from the international system and the Rapporteurs can be. Agreeing with Mr Kothari, Ms Farha said that one of the major contributions of the mandate has been the work done on standard-setting, which is extensively used by governments, courts, and lawyers around the world to realize the right to housing. She then recounted some of her most memorable interactions with people living in inadequate conditions all around the world, whose stories stayed with her during the course of her work as Special Rapporteur and afterwards.

Mr Balakrishnan Rajagopal

Mr Rajagopal thanked HLRN for organizing this very important discussion, particularly Ms Chaudhry, for the work done to bring all the Rapporteurs together on a single platform. While endorsing what had been said on HLRN by the previous speakers, he also said the organization is an exemplary stakeholder for the UN Housing Mandate and also a key partner in the Massachusetts Institute of Technology’s Displacement Research and Action Network (DRAN), which he heads.

Mr Rajagopal agreed that standard setting has been one of the most important contributions of the mandate. The soft law standards, which are being used for advocacy by movements, have also begun to influence the behaviour of states. He also mentioned how the country missions of the

former Rapporteurs, including Mr Kothari's mission to Canada, Ms Rolnik's mission to the United Kingdom, and Ms Farha's incredible success in influencing Canadian housing rights policies have been particularly "critical movements to catalyze changes in domestic-movement building." The mandate has also been instrumental in enabling a global movement on housing rights, with the secret behind the same being the commitment and energy of the former Rapporteurs.

Another important contribution of the mandate has been the broad approach taken towards the right to housing, for instance, taking homelessness beyond the narrow definition of street homelessness. This shared vision of all the Rapporteurs has been quite remarkable, and is not something that is common among other mandates. This approach has also set the benchmark for all actors, including states and UN bodies, to assess compliance with laws and progress made with regard to the right to housing.

Ms Chaudhry thanked the panellists for sharing their experiences and reflections on major contributions of the mandate and agreed with Mr Kothari and Mr Rajagopal on how the adoption of a broad approach to the right to housing by the Rapporteurs has been critical to human rights work, including its instrumentality in linking the right to housing with the right to land as a human right.

2) Greatest Challenges to Realization of the Human Right to Adequate Housing

In the second round of questions, Ms Chaudhry asked each mandate-holder to share their thoughts on the major obstacles to the realization of the right to housing, and whether they believed that the UN, especially the Housing Rapporteur Mandate, could help address the current global housing crisis. The responses are presented in the order in which the panellists spoke.

Ms Raquel Rolnik

Ms Rolnik stated that most of the individual and collective complaints that the Special Rapporteurs receive, on a daily basis, are about evictions. Evictions now have new faces, for example collective evictions from self-built community housing, evictions because of rent arrears, home demolitions, or privatization of social housing. As land and housing have become more than just essentials for people to live, they have become financial assets and, are thus, more commodified and financialized. The submission of public and state policies to the mantra that the best use of a place is one that can bring more interest to the capital invested in that place – is a big challenge. The challenge is on the level of macroeconomic policy but also the whole structure of financialized capitalism, which is adding more layers to pre-existing struggles around land and housing. Serious challenges revolve around discrimination on many lines as well as other pre-existing barriers and mechanisms that block access to land and housing. The issue is how can the UN system help communities, citizens, and residents to deal with this?

Another problem is that the UN system has, over the years, become less relevant to global decision-making processes, which are outside the purview of international communication between states. But that does not diminish its importance or relevance today. She also stated that although people rely on the UN to take direct action, it does not have the power to intervene in situations on the ground, for instance to stop an eviction. But the fact that the UN backs people, that the Housing Rapporteurs draw attention to specific problems and solutions, is very powerful and useful for local struggles. This is the great strength that the mandate brings to people. However, in order to use the UN mechanisms, including the Housing Rapporteur mandate, it is important to have strong grassroots groups, social movements, and organizations at the local and also at the global level.

Ms Leilani Farha

Ms Farha, while agreeing with Ms Rolnik, also spoke of the need for some major paradigmatic shifts, even 20 years after the mandate. These include shifts required from considering homeless persons as beneficiaries of charity (at best) or as criminals (at worst), to rights-holders. She also called for a shift in the nature of identification of human rights violations by states. Not just actions (acts of commission) but also the failure of governments to act (acts of omission) should be construed as violations. In addition to considering forced evictions and displacement as a human rights violation, the failure of governments to adopt rights-based housing strategies and to secure people's right to housing should also be considered as human rights violations. The failure of governments to realize that access to justice is important to the recognition of human rights is also a violation. She also emphasized the urgent need to undo the "uber-commodification" and financialization of housing that has now become the dominant frame in almost every country around the world.

Ms Farha also observed that international institutions, not just the UN, are "really going down." They don't have as much power as a big private equity firm does; neither do governments exercise the same power and authority as some large private firms. While these are causes of worry, they do not imply that the UN should be abandoned. On the other hand, she stated how powerful and specially placed the Special Rapporteurs are within the UN human rights system, with this mechanism being one of the best, most flexible, and responsive. Even though the UN faces challenges of resources and the system is unable to respond to some systemic issues, she reiterated how crucial the role of the Housing Rapporteur mandate is to shaping global movements, pressuring states to fulfil their legal obligations, and in helping local and regional movements, as they are the ones who bring about real change ("change comes from below"). While emphasizing the importance of the need to use international human rights law, she asserted that "human rights are all about holding governments and other actors accountable."

Mr Balakrishnan Rajagopal

Building on Ms Farha's comments, Mr Rajagopal agreed on the value and unique positioning of the Special Rapporteurs. While being a part of the UN system, more importantly, their role as independent experts — who are part of a global movement — allows them to bring about real, radical change in realizing housing as a human right.

In terms of the greatest challenges being faced today, he stated that the coronavirus-induced global crisis is a crisis we have not seen in over 100 years. It also comes at a time characterized by extraordinary economic precarity and economic fragility, whose roots can be traced back to at least 2008. This precarity has also come at a worrying time when many states are showing signs of weakening and cracking in different ways, in addition to threads of social cohesion fracturing. These changes are not conducive to collective public action. Temporary measures announced by states to deal with the impact of the crisis on the right to housing, such as eviction bans, have already expired or are about to expire. The onset of winter is likely to make things worse. In light of these deeply problematic times, he hoped that the approach to dealing with COVID-19 and rebuilding mechanisms rests on a strong commitment to the right to housing, among other human rights.

Mr Rajagopal then shared the broad context and substantive priorities for his mandate. The context of neoliberalization of institutions, not just of the state, is a barrier to the achievement of the right to housing. Even if we win legal recognition of the right to housing, if it is compromised by neoliberal economic policies, it will be an uphill struggle. He spoke of the need to assess structural barriers in

order to create more policy spaces for the right to housing. Other challenges include deepening social divisions, the rise of extremism, and the weakening and capture of state institutions. The housing mandate is part of a larger global movement to “pushback deeper” – in terms of movement-building to counter the problems we are witnessing, including the economic crisis caused by COVID-19. But there is great hope from social movements — working on social, racial, caste, economic justice — for promoting the right to housing as a human right.

In terms of substantive priorities, his next report to the Human Rights Council would be an assessment and evaluation of 20 years of the UN Housing Rapporteur mandate, for which this discussion is also extremely useful. The next report to the General Assembly would be on the right to non-discrimination in the context of the right to housing, with a focus on spatial segregation, especially as it is defining the kind of urbanization we are witnessing around the world. The relationship between the right to housing and climate change, disasters, and migration is a key issue that he will focus on. The nexus between the right to housing and humanitarian and human rights law, especially the right to remedy and reparations, is another area of interest that will be explored.

Mr Miloon Kothari

The first challenge identified by Mr Kothari was the complete inability and unwillingness of states to regulate the real estate market or to prosecute those causing large-scale corruption and responsible for evictions. A corrective to the neoliberal system could be if states seriously developed housing policies based on the ‘housing continuum’ or the ‘Housing First’ model, but we don’t see that. State housing policies instead are also largely neoliberal. Agreeing with Mr Rajagopal, he emphasized the need for the mandate to be seen as much broader than just the right to housing.

The second challenge he identified was the lack of local democracy, even in democratic countries. People do not have a say in what happens in their cities, in their villages, in their neighbourhoods. A major weakness across the UN system is the tension between the rural and urban. There is an obsession with urbanization at the cost of over 3 billion people in the world who are living in rural areas. Most of the world’s poverty is in rural areas, particularly in South Asia and Africa. In India, for instance, there are over 170 million rural households, 56 per cent of them do not own agricultural land. There is a very strong gender dimension here because 35 per cent of rural households are women-headed but only two per cent of them own land. This highlights the critical issue of land rights. We cannot get to the bottom of the housing rights crisis unless we address the larger land rights crisis and the assault on land rights around the world. Evictions are not only about homes but also about large-scale land grabbing and other new forms of eviction. Several reports, including by HLRN, have documented widespread evictions in countries even during the COVID crisis. The impunity of states, thus, needs to be urgently tackled.

While identifying problems within the UN system, Mr Kothari emphasized the “incredible bias” that gives more importance to civil and political rights than to economic, social, and cultural rights, even within the Office of the High Commissioner for Human Rights. He also highlighted the need for more UN agencies, in addition to UN-Habitat, to focus on the right to housing. Mr Kothari spoke about how the Sustainable Development Goals are terribly flawed, as they are mainly obsessed with the growth approach instead of focusing on structural issues that create homelessness, the affordability crisis, and displacement.

One area that needs significant improvement is that of follow-up within the UN human rights system, even for the work done by the Housing Rapporteurs. In the absence of systematic follow-up, all information, including the great repository of data and analysis that goes into a mission is

essentially lost. While commending the Universal Periodic Review (UPR) mechanism, he concluded by reiterating the need to raise the profile of housing and make it something that people are concerned about. There's a need to overcome the gap between what people recognize as a significant right and issue of basic dignity and what the system recognizes and how it responds to the most urgent issues on the ground.

3) Recommendations to Advance the Human Right to Adequate Housing

In the final round of questions, Ms Chaudhry asked each mandate-holder to present three key recommendations to address the housing crisis and to move closer towards the realization of the human right to adequate housing. Responses are presented in the order in which panellists spoke.

Ms Leilani Farha

1. **Important to raise the profile of the right to housing:** The human right to adequate housing needs to be popularized more, making it very accessible to all, especially to young people who are galvanized by this issue.
2. **Need to discuss how authoritarian states can be influenced to uphold the right to housing:** Citing her terrible experiences with Egypt and France, and that of Ms Rolnik's experience with the UK, Ms Farha stressed on how a few states are really "pushing back" on basics and fundamental rights, which need to be urgently addressed.
3. **Explore the bias towards civil and political rights over economic, social, and cultural rights:** There seems to be an underlying preference of civil and political rights over economic, social, and cultural (ESC) rights. Within ESC rights too, the right to housing is not on the top of the list most of the time. She mentioned how her report on the 'Right to Life and Right to Housing' gained the least traction of all her reports as Special Rapporteur, which needs to be understood, especially now as this is a very important concern in the context of the pandemic.

Mr Balakrishnan Rajagopal

The challenges to advancing the right to housing are extremely well-known. Twenty years of the mandate have resulted in incredible things to recognize the right to housing but the structural barriers are enormous and only getting worse. While human rights are very important, societal problems are not going to be solved only with the recognition of particular human rights or believing that human rights are the solution to all our problems. Human rights are only a part of much broader changes that need to take place in states, for instance, the need for local democracy. It would thus be useful to start with more realistic expectations of what the right to housing mandate can do in the next few years.

Three focus areas:

1. **Essential to focus on evictions and advocate to stop forced evictions:** The issue of evictions, which led to the establishment of the mandate, has only got worse and has become similar to a pandemic. The pandemic gives us a key reason to end evictions, as it emphasizes the vital link between health and housing. Evictions will worsen the spread of the coronavirus. In this context, he appreciated the 'Zero Evictions Campaign' launched in

Brazil by Ms Rolnik, which is being supported by several organizations around the world, including HLRN, and his mandate.

2. **Important to plan for the post COVID-19 scenario and ensure that the right to housing is central to the recovery effort:** Efforts need to be made to challenge the broader policy environment to enable the promotion of the right to housing, with enough policy space for it to flourish.
3. **Focus on the right to remedy and reparation:** An issue that all previous Rapporteurs have grappled with is, what happens when the right to housing is violated, and who is accountable and how. It is thus important to hold states and other actors, including the financial and real estate actors, accountable for their actions.

Mr Miloon Kothari

1. **Need to look beyond the ‘zero-evictions approach’:** ‘A zero-evictions approach’ may not be feasible, as there are instances when people may need to be moved because of health and life-threatening conditions, including for climate change. Thus, the requirement in the UN Eviction Guidelines that people can only be moved in “exceptional circumstances” as well as other criteria for eviction impact assessments, adequate resettlement and rehabilitation, and for reparation and remedy - should be fulfilled. We, thus, need a more nuanced approach to evictions, insisting on compliance with international human rights standards.
2. **Need to link the rights to housing and land more strongly:** The land rights question is very important and needs to be worked on more. It is important to combine land and housing, as is being attempted in parts of India with the ‘right to homestead’ law. We also need a much bigger profile from the UN Secretary General and High Commissioner of Human Rights on the right to adequate housing.
3. **Need for a strong anti-imperial radicalism:** There is a need to work together to continue challenging existing neoliberal systems and strengthen the anti-imperialist/anti-capitalist approach that we have all adopted in our work on the mandate. We need to persist with this radicalism and hold the line on what states and private actors can and cannot do. There is a need to challenge the system and not compromise, as many parts of the UN are doing. The Rapporteurs are amongst the only ones holding the line against the neoliberal approach, and it’s great to see more Rapporteurs with this kind of mindset being appointed, even though the Human Rights Council has many “dubious states” as members. Going forward, it would be great to see more joint work being done by Special Rapporteurs and more joint positions being taken particularly given the critical importance of linking related human rights with the right to adequate housing. This was done in the past but needs to be picked up again because of the current global condition.

Ms Raquel Rolnik

1. **Need for a ‘zero-evictions’ campaign:** Responding to comments on this issue, Ms Rolnik reiterated that ‘zero evictions’ does not mean that if life and human rights have to be protected, no one should be moved. This Campaign is very essential today because it links together many different situations of violations of human rights related to housing, which are experienced by people in different countries. The right to adequate housing is not complicated but very concrete, and this Campaign can popularize the right to adequate housing and bring about more subtle interventions and recommendations.

2. **Need for a re-imagination to promote economic, social, and cultural rights:** It has to be taken into account that all economic, social, and cultural rights were imagined by the Human Rights Council at a time when states had the ‘welfare state’ model. However, as countries have moved away from this model, these rights are not valued as much in the UN. In order to rethink the welfare state, we need to think about alternatives to protect and promote the human right to adequate housing within a very different temporal context.
3. **Need to address neoliberalism and build the anti-capitalist movement:** We need to think about how to move forward with this work. The pandemic presents us with a new window to present housing as an issue of defending life.

4) Open Discussion Between the Special Rapporteurs

In the last round, the Special Rapporteurs had some time to speak with one another and ask each other questions. They further reflected on their personal experiences and discussed regrets and challenges related to the mandate, as well as issues related to navigating the delicate line between independence and complying with the ‘code of conduct’ for Special Procedures. They referred to the importance of a broad and truly global approach to the right to adequate housing, including the importance of conducting missions to so-called ‘developed’ countries as well. They also shared their thoughts on strengthening the Special Procedure mechanism at the United Nations.

IV. Conclusion

The event concluded with Ms Chaudhry extending deep gratitude, on behalf of Housing and Land Rights Network, to all the panellists. She commended the UN selection committees for choosing the four Rapporteurs and applauded them for their outstanding work, commitment, and impressive legacy. The importance of the Housing Rapporteur mandate and the need for recognition and implementation of the human right to adequate housing could not be more urgent. She emphasized the significance of housing justice to achieving social, economic, gender, racial, and climate justice.

The recording of this historic event is available online at HLRN’s YouTube channel:

<https://www.youtube.com/watch?v=XPwOEGqbUgg>



Panel discussion with all UN Special Rapporteurs on Adequate Housing (current and former)