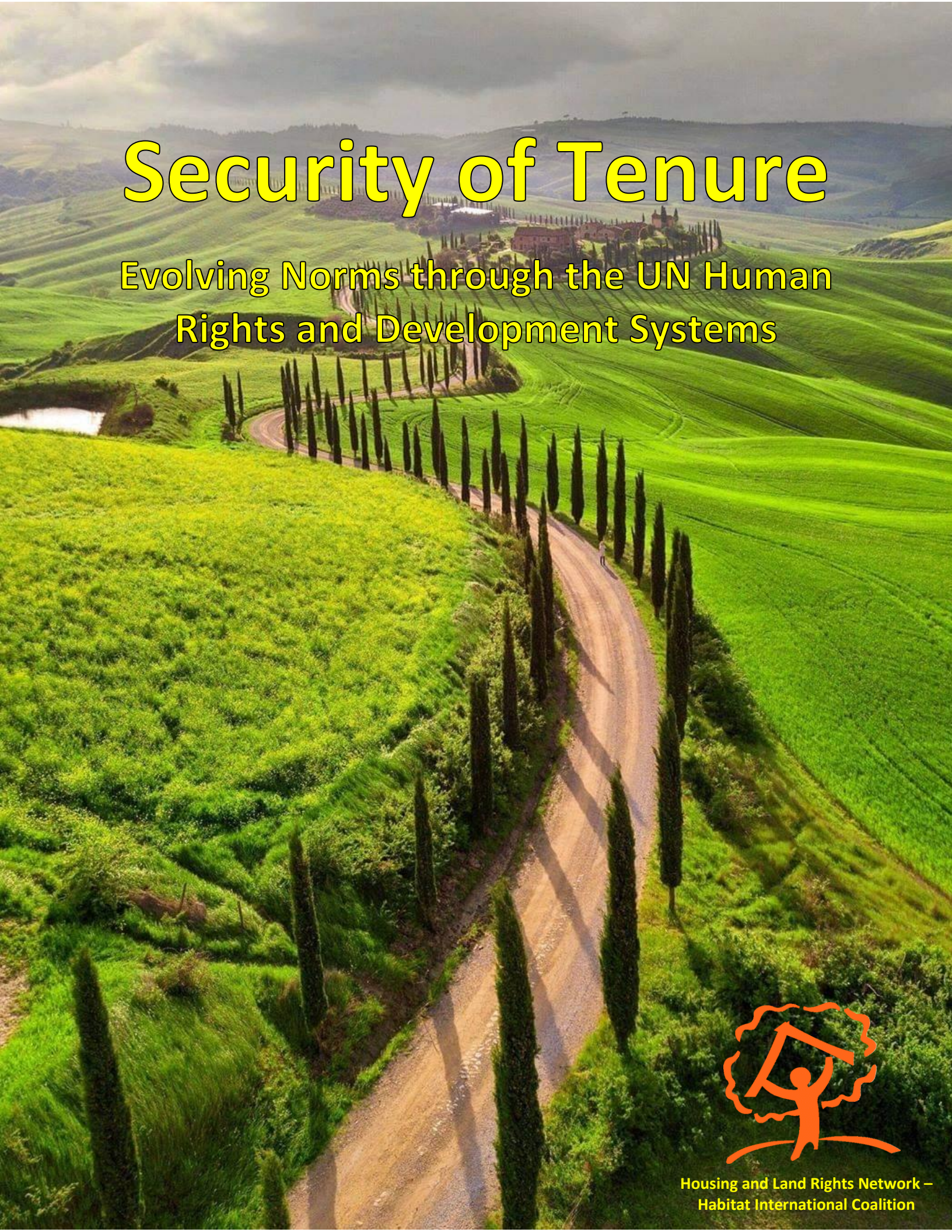
Security of Tenure

Evolving Norms through the UN Human Rights and Development Systems



Housing and Land Rights Network –
Habitat International Coalition

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Publisher's note

The Housing and Land Rights Network (HLRN), a structure of the Habitat International Coalition (HIC), the global civic platform dedicated to supporting the Habitat Agenda. In 1991, the same year as the UN Committee on Economic, Social and Cultural Rights adopted the legal definition of the human right to adequate housing, HIC formed its Housing Rights Committee to develop further the human rights norms and methods related to commitments of the Habitat Agenda and their implementation. Within a few years of operation, that civic initiative found it necessary to extend the same human rights-based tenure-security principles to land as well, resulting in today's HIC-HLRN (www.hlrn.org).

Following the path of normative development, this HIC-HLRN reference work reviews how the UN legal and policy bodies have elaborated the expanding standards of housing and land tenure security toward the fulfillment of related human rights to adequate housing, land and sustainable development. It begins with the first UN Conference on Housing and Human Settlements in 1976 and takes the reader through development of the global understanding about tenure rights and dynamics up to 2024.

This review of the evolving norms of law and practice treats both housing and land tenure as defined in international instruments that define the related binding obligations and voluntary commitments of states, as well as their authoritative interpretation, across the UN Human Rights System and Development Systems.

The work was originally produced as a background study for the Barcelona Urban Thinkers Campus, "Housing in the City We Need," 16–18 November 2015, as part of the preparation process for the UN Conference Habitat III (Quito, Ecuador, 17–20 October 2016). The current version updates that original record to 2024, to keep pace with human rights and development standards as they continue to evolve.

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Introduction

Security of tenure is key to the realization of the human rights to adequate housing and land. The human right to adequate housing is defined in international law, while the legal recognition of the human rights dimensions of land, including also a "human right to land," remain the subject of much debate and deliberation on the part of standard-setting states. That discourse has made slow, but deliberate progress through the Habitat Agenda and accompanying Habitat Debate.

Tenure here is understood to be:

> A set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one's home in security, peace and dignity. It is an integral part of the right to adequate housing and a necessary ingredient for the enjoyment of many other civil, cultural, economic, political and social rights. All persons should possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats.[1]

A spectrum/continuum of tenure was recognized in the Habitat II Agenda (1996) among the commitments to respect a variety of tenure arrangements in specific actions by states and all Habitat Agenda Partners. Since then, several standard-setting processes have made these norms (deriving from both law and practice) more precise. That normative development has provided a baseline of lessons and guidance for the treatment of tenure in the New Habitat Agenda (2016).

This paper (1) reflects upon the inventory of tenure-related principles in the Vancouver and Istanbul Declarations and first and second Habitat Agendas, 1976 and 1996, respectively; (2) reviews the emerging norms and specific guidance for states over the past 20 years; and (3) poses recommendations for both the indispensable evaluation of states' and partners' implementation of those Habitat II commitments and the priorities for Habitat III.

The Habitat Agenda embodied an integrated vision of the context of human settlements, expressed as "spectrums" or "continuums." For example, states and other Habitat Agenda Partners have pledged to apply "a regional and cross-sectoral human settlements planning approach that emphasizes rural/urban linkages and treats villages and cities as ends of a human-settlements continuum in a common ecosystem." [2] In addition to this integrated spatial expression, the Habitat Agenda enshrines the recognition that human relationships with the land and housing also occupy a similar continuum, forming many nuanced options, ranging in degrees of formality and informality.

The Vancouver Declaration and Plan of Action

In setting new norms for regulating the use of land, the states and governments gathered in June 1976 at Vancouver BC for the first UN Habitat Forum adopted The Vancouver Declaration. It recognized that every state must ensure that both urban and rural population growth are based on a comprehensive land-use plan to attain basic goals of social and economic reform "in conformity with its national and land tenure system and legislation."[3]

The Declaration does not impose a particular tenure system, nor advocate any tenure model over others. However, the general Declaration guides states to distribute and localize land tenure—as well as population and productive activities—to ensure "orderly processes of urbanization and arrange for rational occupation of rural space" (Guideline for Action 5).

The accompanying Vancouver Action Plan (VAP) recognized in more-detail that the

> needs for shelter, infrastructure and services are nearly always greater than the capacity of public authorities to provide them. That is why, throughout the world but especially in the developing countries, people have traditionally provided housing and rudimentary services for themselves and will continue to do so in the future. The establishment of standards and the allocation of resources should reflect this basic fact.[4]

The VAP's Section C. "Shelter, infrastructure and services" contains Recommendation C.8 "Construction by the informal sector," which calls for "ensuring security of land tenure for unplanned settlements, where appropriate, or, if necessary, providing for relocation and resettlement with opportunity for employment" (Priority (i)).

Recommendation C.10 on "Aided Self-help" calls for states to develop programs "for regularizing tenure and for adequately promoting popular subdivisions properly serviced and at prices accessible to low-income people" (important measures (c)(i)).

The preamble to the VAP section on "Land" observes that, to exercise control of land use effectively, "public authorities require detailed knowledge of the current patterns of use and tenure of land" and for legislation that defines the boundaries of individual rights and public interest…"[5]

That early expression of the global Habitat Agenda seems to recognize that landed property assume a social function. In fact, that section explicitly calls for recapturing *plusvalía* (socially produced values) by authorities to have:

> suitable instruments for assessing the value of land and transferring to the community, inter alia through taxation, the unearned increment resulting from changes in use, or public investment or decisions, or due to the general growth of the community.[6]

Recommendation D.7 under the same section recognizes the need for information on tenure aspects of land for optimum land-use allocations. This is in recognition of a global reality wherein the need for shelter exceeds the capacity of public authorities to ensure its fulfillment and, hence, make their own tenure and building arrangements. That is why the Vancouver Plan recognizes that, "especially in the developing countries, people have traditionally provided housing and rudimentary services for themselves and will continue to do so in the future."[7]

The Human Right to Adequate Housing

The Vancouver Declaration and Action Plan did not address dispossession of, or eviction from housing. However, that soon would become the subject of much international jurisprudence and declaratory law development on tenure security through the interpretation of the "human right to adequate housing," enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). That treaty, adopted a decade earlier (1966),[8] involved explicit state obligations to implement that human right already recognized as such in customary law; i.e., the Universal Declaration of Human Rights (1948).[9]

Then, 15 years after the 1st Habitat Agenda, the UN Committee on Economic, Social and Cultural Rights issued its first General Comment on the implementation of a specific human right under the Covenant. That General Comment No. 4 "the right to housing" defined the elements of adequate housing, foremost among them being legal security of tenure. It explains:

> Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure [that] guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;[10]

Istanbul Declaration and Habitat II Agenda

At the time of deliberating the second bi-decennial Habitat Agenda in 1996, the link between the human right to housing and legally protected tenure had become a familiar construct. The recognition of diverse land tenure from Habitat I and subsequent standard-setting processes gave way the incorporation of human rights language in Habitat II, but not without a struggle. Legend now is the stubborn resistance on the part of some states, notably the USA, to the very existence of a human right to adequate housing and its constituent elements. Nonetheless, through the negotiation efforts of Habitat International Coalition Members with the ultimate support of many states, the second PrepCom consolidated (1) the affirmation of the centrality of human rights, in particular the human right to adequate housing, in human settlements and (2) the recognition of the principles of good governance in balanced rural and urban development. Those two pillars of the Habitat II Agenda are reflected in the Istanbul Declaration and Habitat II Agenda.

Human rights obligations lie at the core of the Istanbul Declaration:

> 8. We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.

The operational section of the Habitat II outcome documents, the Global Plan of Action, recognizes that the most serious problems confronting cities, towns, rural areas and their inhabitants, including insecure land tenure.[11]

Reaffirming states' "commitment to the full and progressive realization of the right to adequate housing, as provided for in international instruments," the Habitat Agenda pledges that everyone "will enjoy freedom from discrimination in housing and legal security of tenure."[12] More specifically, it enshrines the commitment to provide "legal security of tenure and equal access to land to all people, including women and those living in

poverty; and undertaking legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property…"[13]

Reflecting the legal definition of "adequate housing" already established in General Comment No. 4, five years before Habitat II, that new Agenda acknowledged that adequate shelter means more than a roof over one's head; "It also means," among other essential tangible and intangible attributes, "security of tenure."[14] Committed *actions* included protection of the right to adequate housing for people living in a variety of tenure arrangements and, in particular, "providing legal security of tenure and equal access to land for all, including women and those living in poverty, as well as effective protection from forced evictions that are contrary to the law, taking human rights into consideration and bearing in mind that homeless people should not be penalized for their status."[15] That commitment to uphold housing rights, regardless of tenure status, was to involve giving "special attention…to all those, including women, who are at considerable risk because they lack security of tenure or are inhibited from participation in shelter markets."[16]

In Habitat II, we witness the emerging awareness and articulation of a "continuum of land rights" and tenure arrangements: "through ownership, rental and other tenure options, responding to the diversity of needs"[17] and encompassing "the diversity of tenure systems."[18] Where inhabitants' precarious tenure status leaves them vulnerable to numerous hazards and human rights violations, Habitat II also embodied the recognition of the equal importance of land tenure as a factor of adequate housing. States acknowledged that "ensuring access to land and legal security of tenure are strategic prerequisites for the provision of adequate shelter for all…" in "the development of sustainable human settlements affecting both urban and rural areas…." and as a way of "breaking the vicious circle of poverty."[19]

While recognizing the existence of different national laws and/or systems of land tenure, The Habitat II Agenda emphasized also that all spheres of government,[20] nevertheless, should strive to remove all possible obstacles that may hamper equitable access to land and ensure that equal rights of women and men related to land and property are protected under the law."[21] The 1996 Agenda asserts that the failure to adopt appropriate rural and urban land policies and land-management practices remains a primary cause of inequity and poverty.[22]

The called-for tenure-securing commitments of states and respective governments included actions to:

- Adopt an enabling legal and regulatory framework, understanding and acceptance of existing practices based on an enhanced knowledge, understanding and acceptance of existing practices and land-delivery mechanisms[23];
- Provide institutional support, accountability and transparency of land management, and accurate information on land ownership, land transactions and current and planned land use[24];
- Explore innovative arrangements to enhance the security of tenure, other than full legalization, which may be too costly and time-consuming in certain situations, including access to credit, as appropriate, in the absence of a conventional title to land[25];
- Promote measures to ensure that women have equal access to credit for buying, leasing or renting land, and equal protection for the legal security of tenure of such land[26];
- Remove legal obstacles, including those related to security of tenure and credit, that deny women equal access to basic services[27];
- Take full advantage of the potential contribution of key interested parties in the private formal and informal sectors, and support the engagement of nongovernmental organizations, community organizations and the private sector in participatory and collective initiatives and mechanisms appropriate to conflict resolution[28];

- Encourage the participation of community and nongovernmental organizations to reduce their vulnerability cause by insecure tenure[29]; and
- Carry out tenure regularization, as appropriate, in informal settlements to achieve the minimum level of legal recognition required for the provision of basic services.[30]

A New Millennium of Standards

Five years after the adoption of Habitat II, the General Assembly (GA) held its Special Session on Implementation of the outcome of the UN Conference on Human Settlements (Habitat II) at UN Headquarters. There, states reaffirmed their Habitat II commitments, but recognized gaps and obstacles in implementation. First noted among them was that "the majority of people living in poverty still lack legal security of tenure for their dwellings, while others even lack basic shelter."[31]

In 2001, the same year as that Istanbul+5 review, the UN Secretary-General Kofi Annan issued a roadmap for implementing the General Assembly's Millennium Declaration of 2000. That culmination of several ensuing efforts resulted in the Millennium Development Goals (MDGs).[32] Goal 7: Ensure environmental sustainability contained a target to have achieved "a significant improvement in the lives of at least 100 million slum dwellers by 2020." The generally accepted definition of slum includes insecure tenure among its five criteria,[33] so we could assume that "slum" life improvement serves as a proxy indicator for the improvement of tenure security under the MDGs.

Meanwhile, the Global Land Tool Network (GLTN) of partners has adopted the "Continuum of Land Rights" approach as a useful tool and method of envisioning and providing security of tenure for all, at scale. The Continuum of Land Rights (CoLR) is a metaphor, not an ideologically bound theory. It is the recognition of a time-honored reality. It is "an aid to describing and explaining an existing tenure situation and predicting how a range of tenure types may transform over time, given different scenarios and intervention strategies."[34]

The CoLR approach is described, rather, as a system of thought in which diverse practices of land access and use patterns coexist. The recognition of this plurality allows the prevalence of a diversity of tenure situations, ranging from the most informal types of possession and use, to full ownership. The continuum,

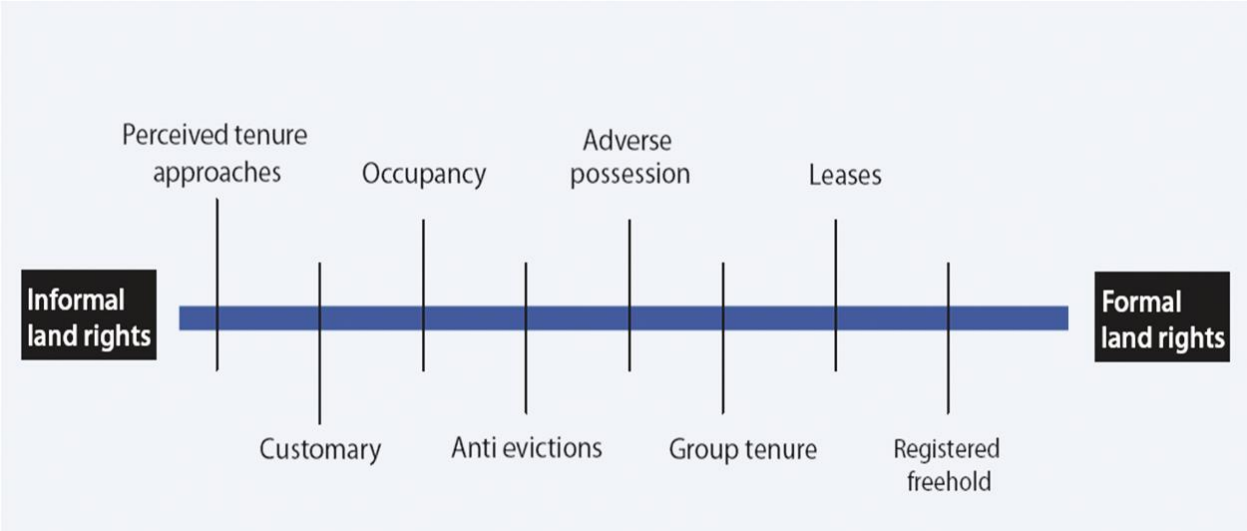


Figure 1: GLTN depiction of the land rights continuum, after removing the GLTN's arrow at the right-end pole of the straight line.

which was adopted at the 2011 UN-Habitat Governing Council resolution by Member States, is now widely accepted by the development community and UN member states. [35]

The land-rights continuum concept recognizes that:

- Tenure can assume a variety of forms;
- The various rights do not actually lie on a single line, but may overlap with one another;
- Rights at the most-formal end of the continuum should not be seen as the preferred or ultimate form of land rights;
- The points on the continuum are each one of several appropriate and legitimate forms that may coincide; the most appropriate form depends on the particular time and context.[36]

The linear graphic and the concept recognitions above may pose some contradictions. The recognition that the various rights do not lie on a straight line would suggest a form other than a straight line to represent any position, process or movement along the spectrum. The linear representation also does not convey the potential combinations or hybrid cases. The suggested "progress" along the line, from left to right (in European languages) implies movement toward a culmination point or, at least, a process toward formality.

Given the hazards arising from that graphic, HIC-HLRN has developed an alternative conception. In order to convey the sense of a true continuum—not just linear progression—and the potential movement along it, we propose a Möbius Strip. Facing the further dilemma of representing tenure types not yet depicted on the linear pattern, we found that the tenure status of public land and property, or public-purpose land and property, lie outside the course of other land and property claimed by people. Akin to the common use and benefit of land and property, the further recognition of its social function as a feature of *all* forms of land and property at all times. Therefore, the resulting graphic depicts that constant as penetrating all other types and points on the continuum. In that case, both the commons/public-purpose and the social function of land and property—to which states committed themselves in the New Urban Agenda[37]—form aspects that are consistent with, and, hence, axes running through land and property belonging or potentially subject to each status and point along the continuum.

Figure 2: Alternative conception of the land rights continuum based upon a Möbius strip allowing for nonpolar movement on a plane containing numerous points (types of tenure). For discussion of many of these tenure forms, see Lauren Royston, "Inequality and Economic Marginalisation: How tenure security can increase access to economic opportunities to poor people" (Pretoria: Trade and Industrial Strategies, January 2009), https://www.tips.org.za/research-archive/inequality-and-economic-inclusion/second-economy-strategy-project/item/2993-how-tenure-security-can-increase-access-to-economic-opportunities-to-poor-people.

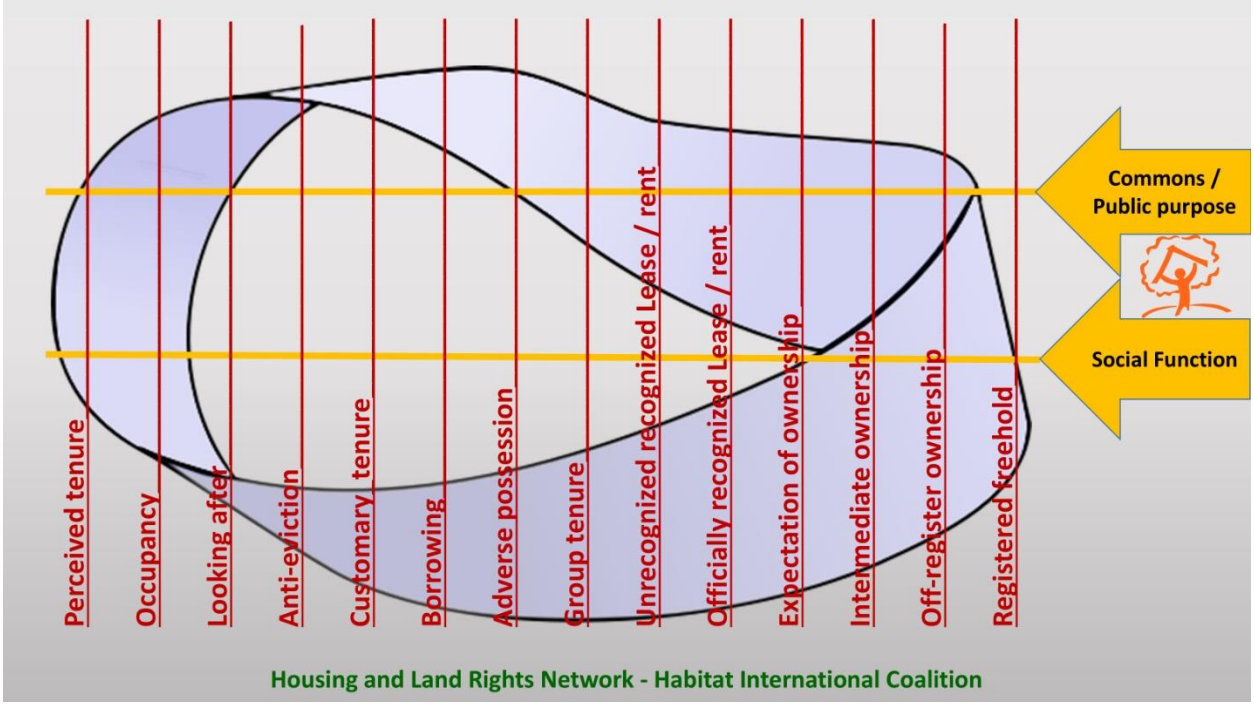


Figure 2: Alternative graphic depiction of the tenure continuum, elaborating the options of legitimate tenure and allowing for non-linear processes throughout a person's lifetime. Source: HIC-HLRN.

Cutting across all types and expressions of tenure are the caveats of the commons; that is, lands belonging to all within a state (e.g., state and national reserves, monuments and parks, etc.), or to all of humanity (e.g., UNESCO World Heritage Sites). As noted in the Committee on World Food Security's Tenure Guidelines,

> All parties should recognize that no tenure right, including private ownership, is absolute. All tenure rights are limited by the rights of others and by the measures taken by States necessary for public purposes. Such measures should be determined by law, solely for the purpose of promoting general welfare including environmental protection and consistent with States' human rights obligations.[38]

A common restriction on "absolute" tenure types, including freehold tenure/ownership, is the ethical tenet of property realizing its social (and environmental) function. This notion limits tenure and use of land and property so as not to deny greater social needs and priorities, but rather to optimize the social benefits from such properties, as the UN General Assembly adopted in the New Urban Agenda.[39]

Good examples of implementing this differentiated expression and understanding of land and property tenure in law are found in the Namibian Flexible Land Tenure Act (Act. No. 4 of 2012)[40] and Mauritania's Pastoral Code (2000).[41] Notorious failures at recognizing the continuum of legitimate tenure are found in the law and practices of the Republic of Sudan, the State of Israel and its parastatal institutions, and the copy-cat Islamic State in the Levant (ISIL).

Other examples may involve more dynamic processes, such as the integral land reforms of the Arab Republic of Egypt under the presidency of Gamal Abd ul-Nasr. The scope of Egypt's land reforms in 1950s eventually gave way, however, to a foreclosing of tenure protections as the biases and land interests of the judiciary, legislature and successive presidents eroded and/or left vulnerable a range of housing and land tenure claims.

While urban land reform recognizing a continuum of tenure is rare, another standard-setting effort in the late period of Habitat II implementation is especially important. The UN Human Rights Council's Special Rapporteur on adequate housing Raquel Rolnik[42] ended her mandate by proffering a set of guidelines developed through multiple expert group consultations. The resulting "guiding principles on security of tenure for the urban poor," with "commentary," were to assist states and other relevant actors in addressing the current tenure insecurity crisis faced by the urban poor in an increasingly urbanized world consistent with international human rights law.

The Special Rapporteur asserted that the concept of legitimate tenure rights extends beyond mainstream notions of private ownership and includes multiple tenure forms deriving from a variety of tenure systems. States should promote, protect and strengthen a variety of tenure forms, including those deriving from statutory, customary, religious and hybrid tenure systems. Consistent with standing obligations of states, she urged that "All relevant laws, policies and programs should be developed on the basis of human rights impact assessments [that] identify and prioritize the tenure arrangements of the most vulnerable and marginalized," promoting, strengthening and protecting, as appropriate, in the given context:

(a) Possession rights;
(b) Use rights;
(c) Rental;
(d) Freehold tenure; and
(e) Collective arrangements.[43]

The SR's guiding principles urge harmonization of the range (continuum) of tenure within a state's integrated system of law, institutions, policies and practices. They incorporate also the foregoing principles of:

- Prioritizing *in situ* solutions,
- Promoting the social function of property,
- Combating discrimination on the basis of tenure,
- Promoting women's security of tenure,
- Respecting security of tenure in business activities,
- Strengthening security of tenure in development cooperation,
- Empowering the urban poor and holding states accountable,
- Ensuring access to justice.[44]

In 2014, the Human Rights Council acknowledged with appreciation, in particular, the Guiding Principles on Security of Tenure for the Urban Poor, and encouraged states to take these guidelines into account when planning and implementing measures to improve the security of tenure for the urban poor.[45]

Norms for National Food Security

Building on the Food and Agriculture Organization of the UN (FAO) process of developing its Voluntary Guidelines on Food Security,[46] stake holding states, civil society and private sector representatives agreed that "states should take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit."[47] On the practical side, the Guidelines recognized the corresponding duty to "consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule

of law, that advance land reform to enhance access for the poor and women. Such mechanisms should also promote conservation and sustainable use of land. Special consideration should be given to the situation of indigenous communities."[48]

On the specific issue of land and productive natural resource tenure, the FAO/ Committee on World Food Security (CFS) "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" (VGGT)[49] provides ample normative guidance to states on how to ensure vital land-tenure security.

Tenure security was core to the principles of the CFS Framework for Action for Food Security and Nutrition in Protracted Crises (CFS-FFA) in 2015. It called for states to implement the "Principles for Responsible Investment in Agriculture and Food Systems" (RAI)[50] and the "Global Strategic Framework for Food Security and Nutrition" (GSF)[51] and the VGGT,[52] all of which enshrine the importance of land tenure security.

Gains and losses of Habitat III

This evolution of normative development and standard setting reflects a gradual progression. In light of the standing commitments of Habitat II as a minimum basis for negotiating the New Habitat Agenda (2016) and these developments, the priority principles for elaborating the new Agenda come into view.

Capturing and enshrining these and other related human rights and development principles established as norms over the decades of the Habitat Agenda, the priorities for Habitat III commitments on secure tenure must include, *ad minimum*:

- Common-but-differentiated responsibilities to ensure security of tenure[53];
- Self-determination of nations and peoples[54];
- Nondiscrimination on the basis of tenure[55];
- "Leave no one behind"[56] without secure tenure;
- Guarantees for women's security of tenure[57];
- Reach the further behind first,[58] prioritizing *in situ* tenure solutions;
- Fill security-of-tenure gap in the 2030 Development Agenda;
- Progressive realization / no retrogression[59];
- Ensuring dedication of the maximum of available resources[60];
- Three pillars of sustainable development: the economic, social and environmental, girded with human rights implementation (respect, protection and fulfillment)[61];
- Coherence among humanitarian, development and (preventive and remedial) human rights methods and approaches to protect tenure[62];
- Extraterritorial obligations to respect, protect and, when possible, fulfill security of tenure in trade, investment, development assistance and international cooperation, in general[63];
- Reaffirmation of the continuum of tenure rights[64];
- Recognition of the social function of land, housing and property[65];
- Respect for security of tenure in socially responsible business activities[66];
- Prohibition, criminalization and prosecution of "forced evictions"[67];
- State accountability for respecting, protecting and fulfilling the human rights of urban and rural poor;
- Implementation, accountability, rule of law,[68] access to justice[69] and remedy (reparations)[70] domestically and internationally;
- Built-in Habitat III implementation monitoring, evaluation and accountability of states and UN agencies.[71]

Applying the following partial list of standing international commitments of states helps guide actions needed in all spheres of government, including at regional and international levels:

(a) Conduct city/region-wide and country-wide assessments of tenure arrangements;
(b) Identify and resolve tenure issues for insecure settlements and population groups, including the homeless;
(c) Develop city/region-wide strategies for securing tenure and upgrading settlements on different categories of land and with various present tenure arrangements;
(d) Review and reform urban/region plans and regulations, with a view to integrating settlements;
(e) Recognize and protect agroecological activities and tenure holders in urban territories within city/region food systems and ecosystems;[72]
(f) Adopt and implement a human rights-compliant resettlement policy to be applied where in situ solutions are not possible;
(g) Facilitate participatory settlement mapping, enumerations and tenure registration;
(h) Establish fair and effective land dispute resolution mechanisms;
(i) Free, prior and informed consent (FPIC) with respect for communities' local and traditional knowledge in establishing secure tenure and changes to community tenure arrangements;
(j) Allocate sufficient funds to ministries, municipalities and local governments for the implementation of these measures;
(k) Adopt or revise legislation to recognize and protect multiple tenure arrangements;[73]
(l) Protect traditional and adverse-possession arrangements with legal SoT guarantees, including with judiciable instruments, as measures to ensure inhabitants resilience with secure tenure in case of displacement and resettlement;
(m) Conduct pre-emptive and participatory social, environmental and human rights impact assessments of policies, programs, projects and related practices involving changes in tenure arrangements for affected communities, ensuring remedy and reparations for better living conditions as a result; and
(n) Ensure "transparent, comprehensive and accessible systems [including information systems] in transferring land rights and legal security of tenure."[74]

This review of the development of norms through law and practice over the 40 years of the Habitat Agenda processes and putative implementation would not be complete without reference to the Legal Empowerment of the Poor and its UN-level Commission (CLEP). While this worldwide and generously funded effort also sought solutions for urban and rural poor living with insecure tenure, it promoted only one expression of tenure on the actual continuum. Its exclusive promotion of private ownership (freehold tenure) lost its luster through the lessons of the subprime mortgage and financial crises of the late 2000s and has not delivered the intended mass capitalization of newly titled homes. However, these lessons are valuable toward rethinking the spectrum of solutions for the foregoing examples and other tenure-specific aspects required of the New Habitat Agenda (2017–36).

Other interpretations of states' treaty obligations in cases involving security of tenure have evolved through the UN Human Rights System to recognize the gamut of tenure arrangements and the corresponding human rights. Notable among them are the Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles),[75] the Basic Principles and Guidelines on Development-based Eviction and Displacement (2007),[76] the draft Declaration on the Rights of Peasants and other People Working in Rural Areas (2012),[77] The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012)[78] and the Framework for Action for Food Security and Nutrition in protracted Crises.[79] All are essential reading and subjects to instruct and incorporate into the New Habitat Agenda as Habitat III operational principles to ground the commitments for advancing the security of tenure.

Unlike permanent obligations under treaty law, as in the case of the human rights Covenants and Conventions, the risk in revisiting temporal commitments as those enshrined in the Habitat II Agenda is that changing political and ideological trends could erode those commitments to produce a lower standard in the next iteration. The Habitat II Agenda faces that real prospect in the process leading up to Habitat III, not least by UN-Habitat's dismantling of it in favor of a narrower "new *urban* agenda." However, for those contributing to and negotiating the multilateral, cross-sectoral and multistakeholder instrument of Habitat III, these well-established principles and corresponding commitments should form a firm baseline to ensure no backtracking, but rather more-effective approaches to eliminate disparities by addressing root causes, in particular, in the crucial subject of security of tenure.

Normative development in specific and evolving contexts

Indigenous Peoples

Five centuries of European colonization have been characterized, in essence, as a denial and refusal to respect Indigenous tenure of housing, land and natural resources. Only in the late 20th century have global norms begun to evolve on matters of Indigenous Peoples' tenure rights. The treaty instruments in the UN System have not yet recognized the specificity of Indigenous tenure.

The International Labour Organization (ILO) first deliberated the question of Indigenous Peoples's land rights in the Indigenous and Tribal Populations Convention No. 107 of 1957.[80] On the spectrum of tenure types, the Convention's parties recognized the subject populations' "right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy."[81] It provides also that "Procedures for the transmission of rights of ownership and use of land which are established by the customs of the populations concerned shall be respected, within the framework of national laws and regulations, in so far as they satisfy the needs of these populations and do not hinder their economic and social development."

Convention 107 was revised in 1989 by Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries,[82] which addresses tenure as "their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship" and guarantees that governments shall respect the special importance of that relationship for the cultures and spiritual values of the peoples concerned.[83] While this progression shows evolution of concepts of tenure in the context of Indigenous Peoples, neither treaty meet Indigenous Peoiples' requirements and demands.

Continuing advocacy and deliberation through the Human Rights Council has resulted in a non-binding Declaration on the Rights of Indigenous Peoples (UNDRIP), which the GA adopted in 2007.[84] UNDRIP reflects the commitment that states shall give legal recognition and protection of Indigenous Peoples' right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired lands, territories and resources. It reflects the commitment that "Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned"[85] and "give legal recognition and protection to these lands, territories and resources… with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned."[86]

2030 Agenda

At the turning point at the end of the Millennium Development Goals in 2015, UN Members States and other stakeholders developed, and the General Assembly adopted "Transforming our world: the 2030 Agenda for Sustainable Development. [87] Among its 17 Sustainable Development Goals (SDGs), commitments to improve land tenure were instrumental to achieving at least four of them.

Goal 1: "End poverty in all its forms everywhere," Agenda 2030 set out Target 1.4: "By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance." That Target's Indicator 1.4.2 provides the only reference to tenure by setting out the evaluation criterion "Proportion of total adult population with secure tenure rights to land, (a) with legally recognized documentation, and (b) who perceive their rights to land as secure, by sex and type of tenure."[88]

Goal 2: "End hunger, improve nutrition & promote sustainable agriculture" included Target 2.3: "By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment." However, Goal 2's Target 2.3 promotes only "secure and equal *access* to land"

With respect to gender-specific dimensions of sustainable development, Goal 5: "Attain gender equality, empower women and girls everywhere" involved pursuit of Target 5.A: "Undertake reforms to give [*sic*] women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws."

In the urban-development context, Goal 11: "Make cities and human settlements inclusive, safe, resilient and sustainable" provided specificity in Target 11.1: "By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums," but omits reference to adequate housing as a human right, with its legal definition and positive obligations of states,[89] or the corresponding negative obligation to prevent and remedy forced evictions as major impediments to sustainable development.[90]

In 2016 also, the UN Committee on the Elimination of Discrimination against Women (CEDaW) completed its deliberation process to produce its General recommendation No. 34 on the rights of rural women.[91] That authoritative interpretation of state party obligations under the Convention on the Elimination of All Forms of Discrimination against Women set out the measures that states should take to enable rural women to act and be visible as stakeholders, decision makers and beneficiaries, in line with the VGGT, the CFS Voluntary Guidelines for Securing Sustainable Small Scale Fisheries in the Context of Food Security and Poverty Eradication, CEDaW recommendation No. 23 (1997) on political and public life and the SDGs. By General recommendation No. 34, CEDaW not only elevated these 'soft law' instruments to guidance on how to fulfill state obligations under treaty, also identify measures and indicators more specific and norm based than under the voluntary and temporary criteria of the 2030 Agenda and its SDG5.

Rural women

For example, CEDaW advises all states parties to ensure that financial services, including credit and loans, include gender responsive mechanisms and are not withheld from rural women because they lack a male guarantor (the land rights element of 'use'). Accordingly, agricultural credit and loans should allow for the

untenured nature of the smallholdings held by many women farmers, so that rural women who may lack formal tenure rights are still able to gain access to them[92] (the land rights element of 'access').

In the context of land and agrarian reform, land acquisition and resettlement, CEDaW General recommendation No. 34 advises states to avoid a male bias, such as registering land only in men's names, making compensation payments only in the name of male tenure holders, or compensating for loss of land, the loss of use and the loss of land value based only on men's activities. It also calls for states formally to recognize and review indigenous women's laws, traditions, customs and land tenure systems, with the aim of eliminating discriminatory provisions.[93]

With respect to women's right to adequate living conditions, including adequate housing,[94] CEDaW's legal guidance notes that the human right to adequate housing is of particular concern in rural areas, where basic infrastructure and services are often inaccessible or of poor quality. Rooted in this human right, CEDaW advises that measures are required to "protect rural women's rights to land (for example, the recognition of women's legal capacity, the recognition of the security of tenure and the elimination of discrimination against women in registration and titling). CEDaW advises that these such measures can be applied to protect rural women's human right to adequate housing[95]…However, additional measures can also be taken to improve the conditions of rural housing from a gender responsive perspective."[96]

At the end of 2018, the UN Human Rights Council concluded its long deliberation process of the specific human rights conditions of peasants (small-scale farmers) and other rural workers, presenting its draft UN Declaration on the Rights of Peasants and Other Workers in Rural Areas (UNDRoP) to the General Assembly for adoption.[97] UNDRoP stresses also that peasant women and other rural women play significant roles in the economic survival of their families and in contributing to the rural and national economy, including through their work in non-monetized sectors of the economy. It recognizes, however, that rural women are often denied secure tenure (including ownership) of land, equal access to land, as well as other inputs and human rights.[98] In addition to peasants, UNDRoP identifies small-scale fishers and fish workers, pastoralists, foresters and other local communities as having precarious tenure of land and other natural resources on which they depend.[99]

With respect to the over-riding human rights implementation principle of international cooperation, UNDRoP enjoins states, where required, to cooperate, as appropriate, to mediate and resolve transboundary tenure issues across international boundaries that affect peasants and other people working in rural areas.[100]

Consistent with states obligations under ICESCR, as specified in CESCR General comment No. 4, UNDRoP recognizes that states shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. Consistent also with obligations provided in CESCR General comment No. 7, UNDRoP echoes states obligation to protect legitimate tenure, ensuring that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed, including collective use and management of the natural commons.[101]

Climate change and related environmental hazards form major and increasing impediments to the enjoyment of human rights, including the right to development. The displacement that often results from such climate events and developments makes housing and land rights, including the entitlement of secure tenure, a core value to respect, protect and fulfill in such contexts. Accordingly, the 2019 Report of the Science and Policy Interface of the United Nations Convention to Combat Desertification (UNCCD) on the

enabling environment to support achieving Land Degradation Neutrality (LDN) demonstrated that governance of tenure, including tenure security, is a key factor for biodiversity conservation, sustainable land management, ecosystem restoration, and other nature and ecosystem-based solutions that combat desertification, land degradation and drought (DLDD).[102]

Also in 2019, the Conference of UNCCD Parties adopted a plenary decision recognizing the importance of the issue to efforts at combatting DLDD challenges and requested the UNCCD Secretariat to "promote awareness-raising on responsible land governance for combating desertification/land degradation and drought among all stakeholders, particularly among vulnerable populations, including indigenous peoples and local communities."[103] With regard to women's secure tenure in the context of climate change, the UNCCD [104]

After more than a decade of civil society advocacy before the UN Committee on Economic, Social and Cultural Rights (CESCR) and the recurring issues found in periodic state party reviews, the Committee took up the issues of land in the context of economic, social and cultural rights. The tenure issues, principles and related state obligations were the subject of January 2022 CESCR General Comment No. 26.[105]

In its authoritative interpretation of state obligations under the Covenant, the General Comment recognizes "Global trends, including climate change and the resulting increase in internal and cross-border migration, are likely to increase tensions over the access to and use and tenure of land, with negative implications for human rights."[106] It identifies weak, mismanaged, corrupt or non-existent legal and institutional frameworks for the governance of land tenure as exacerbating these problems and leading to land disputes and conflicts, social inequality, hunger and poverty.[107]

The CESCR General Comment did not recognize the classic element of land as the subject of a specific human right, as it had done 20 years earlier by recognizing a human right to water.[108] However, it focuses on the obligation of states to protect human rights by ensuring legitimate tenure rights of land holders, not least to protect them from eviction.[109] In that context also, the Committee adopted the tenure rights construct of established normative discourse[110] to define land rights as "equitable and sustainable access to, use of, and control over land."[111]

Conclusion

In multiple situations, the enjoyment of secure tenure to adequate housing and land is indispensable to realizing both human rights and sustainable development. As an element of the human right to adequate housing, secure tenure is a right for everyone, everywhere. The combined norms arising from states' permanent and binding human rights obligations, as well as voluntary and time-bound development commitments, are two compatible sides of the same coin. That theoretical convergence has yet to be realized in practice, as evidenced by the false dichotomy often causing divergence of the two fields.

To develop practical measures still needed to respect, protect and fulfill human rights, the UN's global policy forums and legal bodies have contributed to the norms and understanding of tenure dynamics and legitimacy of multiple tenure types of tenure, including amid climate change often driving displacement. These contributions toward equitable and sustainable access to, use of, and control/governance over land for all provide the principled basis to ensure the well-being of communities and the wider society.

Endnotes:

[1] "Guiding principles on security of tenure for the urban poor," preambular para. 1, in "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik," A/HRC/25/54, 30 December 2013, pp. 3–4, http://www.hlrn.org/img/documents/A_HRC_25_54_EN.pdf.

[2] The Habitat II Agenda: Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996, A/CONF.165/14, 7 August 1996, para. 104, https://www.un.org/ruleoflaw/wp-content/uploads/2015/10/istanbul-declaration.pdf.

[3] The Vancouver Declaration and Plan of Action, United Nations Conference on Human Settlements, Vancouver, Canada, 31 May–11 June 1976, General Principle 10, https://habitat76.ca/2016/06/un-habitat-1976-vancouver-declaration-action-plan/.

[4] *Ibid.*, C. Shelter, infrastructure and services, preamble, para. 5.

[5] *Ibid.*, D: Land, preamble, para. 3.

[6] *Ibid.*

[7] *Ibid.*, para. 5.

[8] International Covenant on Economic, Social and Cultural Rights, 1966, Article 11, https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf.

[9] *Ibid.*, Article 25.

[10] General Comment 4: The right to adequate housing (Art. 11 (1) of the Covenant) (Sixth session, 1991), para. 8(a), http://www.hlrn.org/img/documents/GC4.pdf.

[11] The Habitat II Agenda, *op. cit.*, paras. 8 (re: urban) and 9 (re: rural).

[12] *Ibid.*, para. 39.

[13] *Ibid.*, para. 40(b).

[14] *Ibid.*, Section B: "Adequate Shelter for All," para. 60.

[15] *Ibid.*, para. 61(b).

[16] *Ibid.*, para. 63.

[17] *Ibid.*, para. 65.

[18] *Ibid.*, 114(c).

[19] *Ibid.*, paras. 75, 98(e).

[20] *Ibid.* "Governments at the appropriate levels, including local authorities…" However, the preferred term today in reference to the various roles and functions of government is "spheres" of government, avoiding classical hierarchies and inherent biases, while recognizing also that, in practice, citizens perceive local governments, where they exist, to form the primary government partner in day-to-day circumstances.

[21] *Ibid.*, para. 75.

[22] *Ibid.*

[23] *Ibid.*, para. 79(a).

[24] *Ibid.*, para. 79(b).

[25] *Ibid.*, para. 79(c).

[26] *Ibid.*, para. 79(d).

[27] *Ibid.*, para. 87(g).

[28] *Ibid.*, para. 79(e).

[29] *Ibid.*, paras. 79(f), 98(a).

[30] *Ibid.*, para. 141(i).

[31] "Declaration on Cities and Other human Settlements in the New Millennium," A/S-25/9, 11 June 2001, para. 17, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/S-25/9(SUPP)&Lang=E.

[32] "Road map towards the implementation of the United Nations Millennium Declaration," A/56/326, 6 September 2001, http://www.unmillenniumproject.org/documents/a56326.pdf.

[33] The Proportion of urban population living in slums is the proportion of urban population living in slum households. A slum household is defined as a group of individuals living under the same roof lacking one or more1 of the following conditions:

- Access to improved water
- Access to improved sanitation
- Sufficient-living area
- Durability of housing
- Security of tenure.

Appendix B: Definitions of slum indicators, "Report of the Expert Group Meeting on Slum Identification and Mapping" (Nairobi: International Institute for Geo-Information Science and Earth Observation (ITC), Netherlands; UN-HABITAT, Global Urban Observatory, Kenya; Center for International Earth Science Information Network (CIESIN) Colombia University, USA, 18 November 2008), http://mdgs.un.org/unsd/mdg/Metadata.aspx?IndicatorId=0&SeriesId=711.

[34] GLTN, Property Theory, Metaphors and the Continuum of Land Rights (Nairobi: Un-Habitat and GLTN, 2015), pp. iii and 3, http://www.gltn.net/index.php/component/jdownloads/finish/3-gltn-documents/2205-property-theory-metaphors-and-the-continuum-of-land-rights-eng-2015?Itemid=544.

[35] UN Human Settlements Programme Governing Council, "Sustainable urban development through expanding equitable access to land, housing, basic services and infrastructure," resolution HSP/GC/23/17, 15 April 2015, "recognizing and respecting a plurality of tenure systems," para. 7(b), http://www.preventionweb.net/files/resolutions/N1138498.pdf.

[36] Jean du Plessis, *Handling Land* (Nairobi: GLTN, 2012).

[37] New Urban Agenda, A/RES/71/256, 25 January 2017, paras.13(a) and 69, https://habitat3.org/the-new-urban-agenda/.

[38] Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, CFS38, May 2012, Principle 4.3, http://www.fao.org/docrep/016/i2801e/i2801e.pdf.

[39] *Supra,* note 36.

[40] Government Gazette of the Republic of Namibia, No. 4963 (13 June 2012), http://www.lac.org.na/laws/2012/4963.pdf; The Flexible Land Tenure System in Namibia: Integrating Urban Land Rights into the National Land Reform Programme,

[41] "Loi N° 2000-044 Portant Code Pastoral en Mauritanie," *Journal Officiel de la République Islamique de Mauritanie* (26 July 2000).

[42] The full title of the Special Rapporteur's mandate is "adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context."

[43] Rolnik, *op. cit.*, p. 4.

[44] Rolnik, *op. cit.*, pp. 5–6.

[45] Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context," A/HRC/25/54, 27 March 2014, para. 2, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-54_en.doc.

[46] Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Rome: FAO, 2004), https://www.fao.org/3/y7937e/y7937e.pdf.

[47] *Ibid.*, Guideline 8B: Land 8.10.

[48] *Ibid.*, p. 18.

[49] FAO, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2012, revised 10th anniversary version 2022, https://www.fao.org/3/i2801e/i2801e.pdf.

[50] Principles for Responsible Investment in Agriculture and Food Systems (RAI), 2014, https://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/422954/.

[51] The Global Strategic Framework for Food Security and Nutrition (GSF), most-recent version CFS 2022/50/Inf.22, https://www.fao.org/3/nj988en/nj988en.pdf.

[52] CFS, Framework for Action for Food Security and Nutrition in Protracted Crises (FFA), 2015, https://www.fao.org/cfs/cfs-old/home/activities/ffa/en/.

[53] Rio Declaration on Environment and Development, Principle 7.

[54] Common Article 1 of ICCPR and ICESCR.

[55] Groups subject to discrimination to be named explicitly in the New Habitat Agenda include impoverished, marginalized and vulnerable persons and groups such as: children, persons who are with disability, displaced, elderly, immigrants, farmers, homeless, migrants, indigenous peoples, informal workers, informal inhabitants, landless, LGBTQ, low-income, minorities (ethnic, racial, ethnic, etc.), pastoralists, people under occupation, with HIV/AIDS and other infirmities, refugees, squatters, statelessness, tenants, Travelers, tribal peoples, unemployed, women, youth and others.

[56] "2030 Agenda for Sustainable Development," Introduction, para. 4; The New Agenda, paras. 26, 48, 72, 74(e), http://www.un.org/pga/wp-content/uploads/sites/3/2015/08/120815_outcome-document-of-Summit-for-adoption-of-the-post-2015-development-agenda.pdf.

[57] Habitat II, *op. cit.*, 119(a–l), 46(a–e), 72(a), 78(f), 46(c), 51, 72, 119(j), 120(f), 127(b), 180(g), 180(l), 208(b) and 239.

[58] *Ibid.*, Preamble, Introduction, para. 4, para. 74(e).

[59] ICESCR, Art. 2.1.

[60] *Ibid.*

[61] World Summit on Sustainable Development, Johannesburg, 2002.

[62] Framework for Action for Food Security and Nutrition in Protracted Crises, para. 16, http://www.hlrn.org/img/documents/CFS-FFA_Day7%204_FINAL_DRAFT_Proposed_Secretariat_Edit.pdf; Common Article 1 of International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights: "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."

[63] "Maastricht Principles on Extraterritorial Obligation of States in the area of Economic, Social and Cultural Rights," https://www.etoconsortium.org/wp-content/uploads/2023/01/EN_MaastrichtPrinciplesETOs.pdf.

[64] *Ibid*, Principles 10–29.

[65] See VAP, D: "Land," preamble, para. 3; H2, para. 76(h).

[66] CESCR, various Concluding Observations on States parties' reports, General Comments and "Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights," E/C.12/2011/1, 20 May 2011; Committee on the Rights of the Child, General Comment No. 16 "State obligations regarding the impact of the business sector on children's rights, CRC/C/GC/16, 17 April 2013; UN Human Rights Council (UNHRC), "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/RES/17/4, 6 July 2011; UNHRC, "Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights," A/HRC/26/9, 26 June 2014, supported by 44 co-sponsors and adopted by consensus by all regions.

[67] Habitat II Agenda, paras. paras. 40n, 61b, and 98b; CESCR, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), http://www.hlrn.org/img/documents/GC7.pdf.

[68] ICESCR, Art. 2.1.

[69] ICCPR, Art. 2.

[70] *Ibid*., pp. 5–6; "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, 21 March 2006, http://www.un.org/Docs/asp/ws.asp?m=A/RES/60/147.

[71] Organization for Economic Cooperation and Development (OECD), *DAC Principles for Evaluation of Development Assistance Development Assistance Committee* (Paris: DAC Working Party on Aid Evaluation, 1998); *The OECD/DAC Criteria for International Development Evaluations: An Assessment and Ideas for Improvement* (Paris: DAC Working Party on Aid Evaluation, 1998), http://www.oecd.org/development/evaluation/50584880.pdf; *Standards for Evaluation in the UN System* (New York: UN Evaluation Group, April 2005), http://www.uneval.org/document/detail/22; *Quality Standards for Development Evaluation* (Paris: OECD/DAC, 2010), http://www.oecd.org/dataoecd/55/0/44798177.pdf.

[72] United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295, 2 October 2007. The Declaration provides that: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return" (Article 10); "Indigenous peoples and other communities with customary tenure systems," 9.9, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (*Tenure Guidelines*), endorsed by the Committee on Global Food Security (CFS), Thirty-eighth (Special) Session, 11 May 2012, http://www.fao.org/docrep/016/i2801e/i2801e.pdf.

[73] Proposed actions (a) through (i) are found in Rolnik, *op. cit.*, p. 4.

[74] Habitat II, *op. cit.* para. 40(d).

[75] "Final report of the Special Rapporteur, Paulo Sérgio Pinheiro, submitted in accordance with Sub-Commission resolution 2004/2, E/CN.4/Sub.2/2005/17, 2 May 2005.

[76] "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari," A/HRC/4/18, 5 February 2007.

[77] "Final study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas," A/HRC/AC/8/6, 18 January 2012.

[78] VGGT, *op. cit.*

[79] Committee on Global Food Security (CFS), "Framework for Action for Food Security and Nutrition in protracted Crises," adopted October 2015, para. 16, http://www.hlrn.org/activitydetails.php?id=pGxqaQ==.

[80] ILO, Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 26 June 1957, entry into force 02 June 1959, Article 11, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107.

[81] ILO, Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 26 June 1957, entry into force 02 June 1959, Article 11, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107.

[82] Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), 72 *ILO Official Bulletin* 59, entered into force 5 September 1991, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C169,/Document.

[83] *Ibid.*, Article 13.

[84] GA, United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295, 2 October 2007, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/RES/61/295.

[85] *Ibid.*, Article 26.1.

[86] *Ibid.*, Article 27.

[87] GA, "Transforming our world: the 2030 Agenda for Sustainable Development," A/RES/70/1, 21 October 2015, https://undocs.org/A/RES/70/1.

[88] GA, "Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable Development," A/RES/71/313, 10 July 2017, p. 4, https://documents.un.org/doc/undoc/gen/n17/207/63/pdf/n1720763.pdf?token=y2daA9wFOMO5ugBhho&fe=true.

[89] CESCR, General comment No. 4, *op. cit.*

[90] CESCR, General comment No. 7, *op. cit.*

[91] CEDaW, General recommendation No. 34 (2016) on the rights of rural women, CEDAW/C/GC/34, 7 March 2016, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGC%2F34&Lang=en.

[92] *Ibid.*, para. 69.

[93] *Ibid.*, para. 78(c).

[94] Convention on the Elimination of All Forms of Discrimination against Women, *op. cit.,* art. 14, para. 2 (h).

[95] Consistent with GA, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/19/53, 26 December 2011, https://documents.un.org/doc/undoc/gen/g11/175/76/pdf/g1117576.pdf?token=OYp5W3n0JzeKA4CUCw&fe=true.

[96] CEDaW, General recommendation No. 34, *op. cit.*, para. 79.

[97] GA, United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, A/RES/73/165, 21 January 2019, https://digitallibr.ary.un.org/record/1661560?ln=en&v=pdf.

[98] *Ibid.*, preamble.

[99] *Ibid.*

[100] *Ibid.*, para. 7.3.

[101] *Ibid.*, para. 17.3.

[102] UNCCD, "Shaping an Enabling Environment for Land Degradation Neutrality ," Science-Policy Brief 5 (September 2019), https://www.unccd.int/sites/default/files/2019-08/UNCCD_SPI_2019_PB_1-2_WEB.pdf.

[103] Decision 26/COP.14 Land tenure, ICCD/COP(14)/23/Add.1, 13 September 2019, para. 11, https://www.unccd.int/sites/default/files/sessions/documents/2019-11/26-cop14.pdf.

[104] UNFCCC, "Dimensions and examples of the gender-differentiated impacts of climate change, the role of women as agents of change and opportunities for women," Synthesis report by the secretariat, FCCC/SBI/2022/7, paras. 11, 217, 8, 32–33, 65, 70, 72 and 76, https://unfccc.int/documents/494455; Lorena Aguilar, *Study on the differentiated impacts of desertification, land degradation and drought on women and men* (Bonn and New York: UNCCD, 2022), https://www.unccd.int/sites/default/files/2022-11/Gender%20study%20.pdf.

[105] CESCR, General comment No. 26 (2022) on land and economic, social and cultural rights, E/C.12/GC/26, 24 January 2022, https://documents.un.org/doc/undoc/gen/g23/000/35/pdf/g2300035.pdf?token=0z5gCvgx6R6a4gHdbU&fe=true.

[106] *Ibid.*, para. 2(f).

[107] *Ibid.*, para. 2(g).

[108] CESCR, General comment no. 15 (2002), The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), https://digitallibrary.un.org/record/486454/files/E_C-12_2002_11-EN.pdf?ln=en.

[109] CESCR, General comment No. 26, *op. cit.*, paras. 26–27.

[110] See UN Women, *Realizing women's rights to land and other productive resources* (2013), https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2013/11/OHCHR-UNWomen-land-rights-handbook-WEB%20pdf.pdf, and second edition (2020), https://www.unwomen.org/en/digital-library/publications/2020/10/realizing-womens-rights-to-land-and-other-productive-resources-2nd-edition.

[111] *Ibid.,* paras. 2(a), 2(b), 2(g), 3, 5 and 13.