Mediterranean Regional Consultation on Women’s Right to Adequate Housing

Barcelona, March 2006
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To be able to live in peace and with dignity constitutes a person’s basic need, which is recognised as a fundamental human right under the main international agreements and constitutions. Likewise, the majority of countries have incorporated the principle of equality between men and women and the prohibition of discrimination.

Indeed, the formal recognition of women’s human rights in general, and housing rights – right to housing, to land and an adequate environment – in particular, have undergone important advances. However, women are exposed to certain situations that aggravate their housing conditions and life. In this sense, the situation of female-headed households, widows, female immigrants and in general women who suffer from poverty is of special concern.

The vulnerability of women is as much a response to multiple domination types that benefit the capitalist economy so much, such as the productive white male and supposedly autonomous citizen. There are basically three subordinations that make women’s access to housing rights and to human rights in general difficult: economic, gender and cultural. Thus, as we shall see, as well as the risk factor facing a woman in a capitalist and patriarchal society in relation to accessing social rights, different subordinations are generated such as sexual orientation, colour or marital status, which in turn increase the obstacles for women to formulate and develop a plan for an autonomous life.

a) Female Access to Housing and Economic Subordination.

The development of capitalism has led to the establishment of the logic of economic benefit and accumulation before other forms of thought, such as the value of use and the care of human life. Subsequently, basic resources for the development of a decent life such as water, housing, food and medicine are no longer goods of use and have been converted into business commodities and goods of investment.

As a result, more and more often people are forced to live in overcrowded accommodation, without basic utilities, to leave their homes and not have a roof over their heads. Specifically, the United Nation states there are some one hundred million homeless people, and more than 600 million people whose homes do not meet the minimum requirements of habitability. Thus, as established by the United Nations Committee of Social Rights, the access to adequate housing goes beyond having a place to shelter. Following this criteria, the European Federation of Associations that work for Homeless People (FEANSA) estimates that, in 2004 in the 15 countries of the European Union, there were 18 million people affected by residential exclusion, 2.5 of which were people without a home.

In Spain, for instance, housing policies have been more orientated towards economic growth and the promo-

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2 General Observation No.4 of the International Agreement on Economic, Social and Cultural Rights (PIDESC) of the committee of Economic, Social and Cultural Rights defines the adequacy of housing in relation to the following elements: legal security in the tenancy, bearable expenses, habitability, accessibility, location and cultural adequacy.
3 FEANTSA, Bilan de statistiques, sur l’exclusion 2004 lieue au logement en Europe.
tion of the property business, rather than an answer to the population’s housing demands.

In this manner, via various instruments, such as fiscal policy and public housing policy itself, have subsidised the private property regime for one of a tenancy majority. The confidence placed in the free market and the sacralisation of property law has promoted, through speculation, an increase in the number of empty properties, and an exorbitant increase in property prices, on par with the constant increase in the number of houses being built.

As a result, despite the fact that Spain has one of the highest numbers of houses available in Europe, it is becoming more and more common to find collectives that are unable to meet their housing needs.

This abandoning of housing resources to the logic of benefit as an integral part of capitalist regimes means that poor groups do not have access to adequate accommodation. In this manner, as the testimonies from the different countries presented in the Mediterranean Consultation show, economic subordination and a shortage of economic resources constitutes the main reason for discrimination in the access to an adequate home.

Paradoxically, despite the fact that there are a large number of unoccupied properties and land in countries both in the North and the South, having somewhere to live with dignity is attainable by only a privileged few.

b) Women’s Access to Housing and the Subordination of the Gender.

Virginia Wolf said that “the history of men’s opposition to the emancipation of women is, possibly, more interesting than the history of emancipation itself”.

The “patriarch”, which can be viewed as the system of domination of women by men, manifests itself both in the public arena – work – as well as in the private – family. These manifestations are expressed through practices and customs that prevent women from being autonomous.

As María Jesús Izquierdo points out, the model of citizenship is construed upon a sexist division of work, giving women tasks aimed at the satisfaction of human necessities. The value of the goods and services they produce manifests itself in their use and are measured by the satisfaction provided. With respect to those activities considered to be masculine, the value of that produced is realised when the product of one worker is exchanged for that of another. Consequently female activities are characterised as the production of values of use and male activities as production of values of exchange.

This division of work in patriarchal-capitalist societies places two obstacles that are difficult to overcome on the path towards residential emancipation. Firstly, a special vulnerability in relation to poverty, that is greater difficulties for personal and professional development. Secondly, a conception of the role of women and the home that reinforces the different form of conduct that make up domination.

1) Patriarchy and the Feminisation of Poverty. In the organisation of the dominant job, the patriarchy highlights the precariousness, unemployment, under employment and exploitation of women.

Effectively, the first obstacle that women have to confront in order to have access to housing as well as to maintain a home is the alarming feminisation of poverty. The United Nations estimates that women make up 70% of those who live in absolute poverty. Moreover, in many countries in the Middle East and North Africa, as reflected in the Mediterranean Consultation on Women and Housing, access by women to land is expressly vetoed by the laws and customs related to property and inheritance. Also in central countries female participation in employment continues to face serious differences when compared to males. In Spain, for example, the statistics of female participa-

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4 Between 1997 and 2004 property prices increased by 125%, compared with the 19% increase in the Consumer Price Index (CPI). Julio Rodríguez, «Accesibilidad y política de vivienda», in Colegio de Economistas de Madrid, No.103, Madrid, 2005, p.105.
5 Virginia Wolfe, A Room of One’s Own, Translation by Mª Milagros Rivera Garretas, Horas y Horas, Madrid, 2003.p. 84.
tion is significantly above that of men (12.2 in the case of women, in comparison with 7.3 of men). On the other hand, the inclusion of women in the employment market has been made easier by the promotion of part-time work and the «externalisation of tasks of care» and not as a consequence of the fair re-distribution of domestic tasks.

According to Cristina Carrasco “the different spaces, jobs, and activities which make up life’s processes and reproduction do no all enjoy the same social recognition, but there exists among them a hierarchical evaluative component, which is the result of a long patriarchal liberal tradition”. As such, patriarchal society makes activities like “caring for human life”, something that is seen as belonging to women, invisible. Subsequently, in our society women don not have the possibilities to climb the social ladder or social advancement necessary for developing a project for an autonomous life in a society such as ours.

As a result, the activities of «looking after human life» assigned to women and those segments of the workforce in which these activities are found – domestic employment, looking after children and the elderly, sexual work, the service industry – have the highest level of precariousness and temporality. The informality and lack of recognition which are a central part of these occupations make the autonomous access to adequate housing as this limits the economic solvency required by public and private property owners.

Notwithstanding, as Sakia Sassen suggests, globalisation has not only feminised poverty, but is also «feminising survival». As such, «feminised activity» the providing of food for subsistence, informal work, domestic and care tasks, immigration or prostitution have become fundamental economic sectors for the survival of the families and the countries. This feminisation of survival affects the countries in the North and those in the South equally. This is notably visible through the increasing participation of women in the sending of money, and also through the progressive presence of immigrant women in domestic and care employment.

On the one hand, immigrant women sustain the poor countries through the money being sent – in return for the care of minors and families. On the other hand, in the rich countries these same immigrant women guarantee the subsistence of the system by looking after the elderly and children which in turn facilitates the inclusion of women in the workforce. In short, invisibilised tasks, with scant recognition of the women themselves, are in fact essential for the development of the global world.

2) Patriarchy and the Conception of the Home. The domination of women by men and their subjection to determined roles also has its impact on the conception of the home. In reference to Jane Austen, her nephew wrote – “That she was able to write all of this is surprising, given that she had no studio in which to seek refuge, and she had to do the majority of her work in the living room, subject to all kinds of chance interruptions”.

Despite the changes that have taken place in recent decades: – an increase in people living alone (especially of older women) and single mothers, a dramatic fall in childbirth, an increase in divorce, greater access of women to studies and the job market there continues to be the social acceptance, although not necessarily explicitly, of the family model of the male as the breadwinner and the female as the housewife.

One of the cases presented in the Mediterranean Consultation specifically referred to the social exclusion that women in poligamous marriages in France were suffering. Thereby imposing on women the need to appropriate the model of reproductive sexuality and monogamy and also making it difficult to set up separate spaces for women, whether these be material or symbolic spaces. An example being that there is less and less accommodation and places to stay for women, as well as places that dedicate activities towards women, such as sewing, cooking and childcare.

As a result, both houses as well as public spaces continue to be designed based on the liberal patriarchal mod-

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7 Women’s Institute, Madrid, 2005.
10 Ibid. p. 39.
11 María-Milagros Rivera, Nombrar el mundo en femenino, 3ª Edn., Icaria, Barcelona, 2003, p. 77.
Houses are constructed on the basis of self-sufficiency – washing machine, kitchen, an area for leisure and another for work – and public spaces or shared spaces disappear. The home then becomes the space in which the needs of care and human reproduction are met, and the importance of shared areas which allow for reconciliation between the work-life balance of women – nurseries, game centres and centres for the elderly, etc are ignored.

This conception of the home also forgets that for many women from poor sectors the home constitutes an economic resource, as it is where the only source of income is carried out (seamstresses, cooks, sex workers, child minders and so on).

However, as this author maintains it is not a matter of only classifying, assigning position, or differentiating but also of construing hierarchies.

On the other hand, the practice of sexism means a house or a home can represent different things. For men, home represents refuge, his place of protection which is independent from his power and social position. This fact is even reflected in language itself, by expressions that place the male in the position of “king of the castle”. In the case of women however, the home can become that which puts their physical and moral integrity in danger. In fact, the main acts of aggression against women occur inside the home and are carried out by family members. As the Mediterranean Consultation on Women and Housing illustrated, one of the main demands of the women who had been victims of domestic violence was, specifically, to have the possibility of being able to formally and safely access adequate accommodation.

The possibility of autonomously having access to housing definitively constitutes a refuge from domestic violence and generally speaking a refuge from the patriarchal control exercised in the public domain.

c) Access to Housing and Cultural Subordination.

In order to tackle the matter of residential exclusion accurately, along with economic discrimination and the motives of gender, one needs to consider the complex dominations to which the specific groups have to face: racism, lesbian-phobia, the effects of colonisation and transnational migrations.

As such, it is therefore necessary to look beyond the criteria of gender and consider those factors that raise subordination into something which is «capitalist hetero-patriarchal racially structured»:

The condition of «illegal immigrant» constitutes a tragically discriminatory element that is all too familiar and which consists in the systematic use of legality to convert the difference into inequality and into illegality via immigration law, the laws strengthening borders and police harassment12. The administrative irregularity of an immigrant may mean, for instance, not being able to benefit from public housing policies or the possibility of being held in an immigrant detention centre which does not meet the most basic of living conditions. This regime of «legal apartheid» facilitates the abuse of immigrants by property owners and generates «racist real estate practises». Thus being unable to formulate rent contracts promotes overcrowding, sub-standard housing and these in turn lead to an increase in problems in living in the same neighbourhoods and a rejection of neighbours.

However, this does not mean that becoming legal eliminates the discrimination. In fact, in the majority of the countries in the European Union, as documented by the testimonials of immigrant women presented in the Mediterranean Consultation, for those immigrants who have been able to legalise their situation having adequate accommodation is a requirement to be able to exercise other rights – such as family reunification and a job, - and not a right that binds public authorities. On the other hand, the increasing stigma associated with immigrants increases the discrimination by property owners and estate agents far beyond their regularisation. Finally, there are multiple factors that in determined societies increase people’s vulnerability. National or ethnic origin, sexual orientation, religion and a person’s colour are added factors that increase the lack of “recognition” and stigma, understood as a situation of inability to become skilled for complete social acceptance. Nancy Fraser suggests making a distinction between “injustices of distribution and injustices of recognition, both being types of offence of equal importance and seriousness... which any morally valid so-

12 Ibid, p. 15.
cial order should eradicate, but one cannot be reduced by the other”

CONCLUSIONS

The more a person is removed from the condition of “appropriate citizen” the more difficulties they have accessing basic resources for their survival and autonomy. What constitutes difference and how the different tends to link a person with the particular, the peripheral, the deficient – as opposed to the universal and the central – ends up conforming to asymmetric relationships of power. As such, it is necessary to formulate strategies that deal with the different subordinations – economic, gender and racial – in order to challenge them together on the basis of an understanding as to how they connect and articulate.

Anti-discriminatory practices are required that understand the different types of oppression that in a structural manner reinforce the subordination of certain groups. As Mari Ángeles stated, although discrimination is perceived or manifests itself individually, its basis is that of the group. It is not so much a matter of correcting the individualised dysfunctions of inequality itself but to eliminate the foundations that support it.

To the extent in which this condition of domination refers to a situation of structural injustice that has different aspects (exploitation, marginalisation, poverty, violence, racism), the promotion of the housing conditions of women does not only require the overcoming of discrimination in the area of equal rights for women.

What is more and has been shown, firstly, specific acts directed at ending the inequality in the distribution of resources of capitalism itself are also necessary. It is difficult to make the logic of benefit and accumulation compatible with the generalised access to basic goods. Likewise, the promotion of housing as sources of business and investment is an obstacle to the socially fair use of the goods of housing.

Secondly, it is necessary to reconstruct the hierarchies and roles that hinder the promotion and social upward mobility of women. The sexist division of work and in general patriarchy means that women are over-represented within poor groups. Meanwhile, the conception and planning of the home as the place in which women meet the family’s need, has converted the home into a place of imprisonment and at times submission. To be able to overcome this situation means the demystification of the supposed autonomy of the productive individual and to rethink the model of citizenship from the ever present dependences in a person’s life cycle.

Finally, it is of special importance to circumvent the various forms of racism present in society: discrimination ultimately multiples itself from circumstances such as colour, immigration status and specific options such as sexuality and religion.

Given that outlined above, facilitating the access of women to housing resources and in general to social rights means the thorough rethinking of the policies of redistribution and recognition. That is to conceive the solutions not so much from stagnant categories but from multiple forms of discrimination that on a day to day basis stop women from formulating and putting into action a plan for an autonomous life.

Vanesa Valiño Esparducer
Directora del Observatori DESC
Barcelona, 2006

The Mediterranean Consultation on women’s right to adequate housing was held in Barcelona from the 16th to the 20th of March 2006. Its main objective was to inform the United Nations’ Special Rapporteur, Miloon Kothari, of the different demands and problems faced by women in the Mediterranean region in independently gaining access to decent housing.

The Consultation assembled seventeen human rights non-governmental organisations from ten countries of the Mediterranean Basin: Italy, France, Morocco, Algeria, Tunisia, Greece, Croatia, Turkey, Portugal and Spain, as well as a representative of the Saharan people.

This regional gathering of women was framed in the will of the United Nations Commission on Human Rights, expressed through various resolutions, to get to know the obstacles which women suffer in gaining access to adequate housing. In this respect, since 2002, the Special Rapporteur on Adequate Housing, Miloon Kothari, in addition to his Annual Reports on the situation of the right to adequate housing, presents the Commission on Human Rights (today the Human Rights Council) with specific reports on women and housing, for which the main sources are the Regional Consultations.

Seven other consultations on women and housing were held previous to the Mediterranean Consultation: an African Regional Consultation, held in Kenya, October 2002; an Asian Regional Consultation, held in India, October 2003; a Latin American Regional Consultation, held in Mexico, December 2003; a Middle East Regional Consultation, held in Egypt, July 2004; a Pacific Regional Consultation, held in Fiji, October 2004; a North America Regional Consultation, held in Washington D.C., October 2005 and a Central Asia/Eastern Europe Regional Consultation, held in Hungary, November 2005.

The Organisation of the Mediterranean Consultation structured the distinct sessions of work into two blocks. The first was dedicated to educating the participants in the right to adequate housing in the framework of International Human Rights Law: the content and scope of the right to adequate housing, state obligations, and mechanisms in place for the protection and demand of these rights. Based on this training, in the second block, the women presented testimonies and reports related to gender-based discrimination in the access to housing and land. Specifically, and in order to systematise the problems experienced by women in relation to housing, five thematic axes which would serve as a framework for the testimonials were established:

1. Housing and women suffering from gender violence.
2. Housing and immigrant women.
3. Housing, women, and privatisation of services.
4. Housing, women, and discrimination against national minorities.
5. Housing and impoverished women.
6. Housing, women, and legal and cultural discriminations.

The Mediterranean Consultation also gained from the participation of the Special Rapporteur of the United Nations on Violence against Women, Yakin Ertrük, whose participation allowed us to underline the close link between gender violence and the availability of
places to live in dignity. Further, the education and qualification of women depended on Joseph Schechla, representative of the international network, Habitat International Coalition (HIC). Observatori DESC was in charge of the organisation of the event, with the aid of various organs of the Government of Catalonia, such as the Agencia Catalana de Cooperación al Desarrollo (Catalonian Agency for Cooperation for Development), the Instituto de las Mujeres (Women’s Institute), the County Council of Barcelona, as well as the Programa para el Instituto Internacional de la Paz (Programme for the International Peace Institute).

However, the merit goes to those participating, who via their brave testimonials showed the different sides of discrimination in accessing adequate housing.

This report is a compilation of everything said and worked on during the four-day conference, so that it serves as proof, as a reminder, and as a tool for consultation. With the intention of contributing useful facts and observations in order to understand the different situations in the Mediterranean region, specific information regarding the countries represented has been added.
The Regional Consultations on Women and Housing are conferences promoted by the United Nations with the aim of receiving information from women concerning violations, discrimination and obstacles that they suffer in the enjoyment of their right to housing.

The testimonials and information that the women present to the Rapporteur in the Consultations provide the basis for the specific reports on women and housing that the Rapporteur then presents to the United Nations Human Rights Commission.

The compilation of information, nevertheless, begins before the hosting of the event, through a specific questionnaire on women and housing drawn up by the United Nations Special Rapporteur on Adequate Housing. The questionnaire began to be diffused in 2002 and is steered towards civil society organisations as well as towards States. The questionnaire consists of two parts: The first is dedicated to the examination of the international legal framework of the right to adequate housing, while the second focuses on obtaining information on the housing situation and of access to land for women and of the means adopted by the government to prevent gender-related discrimination.

The questionnaire goes further than the compilation of information on the housing situation of women in different countries. It also develops the idea of the adequacy of housing in the specific context of women, and emphasises the indivisibility of human rights, strictly linking the respect of the right to adequate housing with the right to privacy, to information, judicial appeal, and participation.

In this respect, the questionnaire is an instrument through which organisations can present the situation of their country and formulate reports of representative cases for the Special Rapporteur on Adequate Housing. In addition, it represents a tool for learning of human rights, particularly the right to adequate housing.

The Special Rapporteur, therefore, in the elaboration of the annual reports on women and housing draws on the facts demonstrated by the questionnaires, as well as the testimonies presented during the regional consultation.
1.2

The origin of the Regional Consultations

In 2000, the United Nations Human Rights Commission created a new special mechanism for the protection of human rights with the mandate of protecting and promoting the right to adequate housing: the Special Rapporteur on Adequate Housing as an integral element of the right to an adequate standard of living and on the right of non-discrimination in this respect\(^\text{16}\).

Through his reports, the Rapporteur began to visualise the special situation of vulnerability that women find themselves living in relation to the access to land and to adequate housing. In 2002, with the aim of strengthening this focus, the Human Rights Commission requested the Rapporteur on Adequate Housing, in the ambit of his mandate, to carry out a study on housing and women\(^\text{17}\).

Since this date, the Commission, in its resolutions, “Encourages the United Nations Housing Rights Programme (...) to continue its regional consultations, with the participation of representatives of Governments, United Nations agencies, intergovernmental organizations, and non-governmental organizations”, and moreover “Requests 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, within his mandate, to submit a report to the Commission (...) the study on women and adequate housing; and “Invites all States that have not done so to respond to the questionnaire prepared by the Special Rapporteur;”\(^\text{18}\).

As a result of this process, the Rapporteur, through specific annual reports, has developed an important theoretical framework on the issue of gender discrimination in the access and enjoyment of the right to adequate housing and land.

1.3

Objectives of the Mediterranean Consultation

The magic charm of the Mediterranean is that in such a small space, such a large diversity of situations, cultures, languages, and religions are present. However, this diversity has not prevented time, history, and the inevitable human condition of communication and interrelation from generating the emergence of strong cultural and affective links between the different Mediterranean nations.

In this Mediterranean context, the possibilities of having access to adequate housing is one area in which progress remains to be made. Further, in the case of women, the intervention of economical, social and cultural factors create a special situation of vulnerability.

In this framework, Observatori DESC was assigned the role of organising the Mediterranean Consultation on Women and Housing by the Special Rapporteur.

- Strengthen the claim to a right to adequate housing in relation to gender through education and the exchange of women’s ideas and experiences.
- Allow women’s voices to be heard by the Special Rapporteur in relation to housing problems.
- To explore the factors that prevent women’s access to housing rights and land in the Mediterranean region.
- To tighten the links between women, organisations, and social movements that work on housing problems in the Mediterranean.

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\(^{16}\) The Human Rights Commission in decision 1193/103, adopted in session 49, designated Rajinder Sachar Special Rapporteur on the promotion and realisation of the right to adequate housing. This Special mechanism existed until 1995.

\(^{17}\) Resolution E/CN.4/RES/2002/49.

2 Preparatory work for the Mediterranean consultation

2.1 Identification of the geographical range

The process of the Mediterranean Regional Consultation involved 17 non-governmental organisations working in the field of human rights from 10 countries of the Mediterranean Basin, and the Saharan people: Spain, Italy, France, Morocco, Algeria, Tunisia, Greece, Croatia, Turkey, and Portugal (Portugal being the only one that cannot be considered strictly Mediterranean).

2.2 Identification of the content

Once the housing situation of women in the Mediterranean region was analysed, six sources of violation of the right to adequate housing were identified, allowing for the location of testimonies and cases to be presented.

I. Housing and women suffering from gender violence.  
II. Housing and immigrant women.  
III. Housing, women, and privatisation of services.  
IV. Housing, women, and discrimination against national minorities.  
V. Housing and impoverished women.  
VI. Housing, women, and legal and cultural discriminations.

2.3 Identification of the participants and preliminary consultation

The selection procedure of the participants began with the identification of a non-governmental organisation in each country that worked in the field of human rights. This Organisation served as a focal point, driving the Consultation on a local level, whether directly or with the support of other organisations. In order to carry out this work the local organisations used the questionnaires on women and housing, drawn up by the Special Rapporteur in 2002. This questionnaire represented a key tool for the approximation of the different normative and cultural situations of access of women to land and to housing in the different countries.

Each country was represented by two women.

Organisations by country:

Argelia  
• Association Tharwa N’Fadhma N’soumer  
  www.panosparis.org  
• Maison Nedjma pour aide aux femmes en difficulté

Croatia  
• Be active Be emancipated  
  www.civilsoc.org/ece/croatia/babe.htm
Spain
• Asociación de mujeres víctimas de violencia, Miriadas
• Asociación Pro-derechos Humanos de Andalucía
  www.apdha.org

France
• Droit au Logement (DAL)
  www.globenet.org/dal

Greece
• Therapy Centre for Dependent Individual
  www.kethea.gr
• Educational and social act

Italy
• Associazione Diritto alla Casa, Action
• Unione degli Inquilini
  www.unioneinquilini.it

Morocco
• Association Forum de Femmes, AFFA
• Fundation YTTO pour l’hébergement et la réhabilitation des femmes victimes de violence
  www.ytto-fondation.freesurf.fr

Portugal
• Comissão des Moradores de Azinhaga Dos Bizouros
• Associação Solidaridade Imigrante (SOLIM)

Saharan Peoples
• Unión Nacional de Mujeres Saharaui

Tunisia
• Association Tunisienne des Femmes Démocrates
  ATDF

Turkey
• Van Women Association
  www.chez.com/affahocemai/
The Consultation was held from the 16th to the 20th of March 2006 in Barcelona, and the work was carried out in two parts:

• The first part concentrated on informing the participants of the content and scope of the right to adequate housing as set out by international law, the obligations placed on States to ensure its enjoyment and the protection and complaint mechanisms which exist for the denunciation of violations of women’s right to adequate housing. This part depended on the interventions of Observatori DESC, the participation of the Special Rapporteur on Adequate Housing, Miloon Kothari, and of the Special Rapporteur on Violence against Women, Yakin Ertrük, as well as a representative of Habitat International Coalition (HIC), Joseph Schechla.

• In the second part, the participants, making use of their acquired knowledge, and using the Tool Kit, presented testimonies and demands related to discrimination against women in access to housing.

Finally, by means of conclusion, common guidelines were agreed upon for situations of violation of women’s housing rights, and complaint strategies were explored together to be applied in the region.

The Tool Kit is an instrument used to gain information on the right to adequate housing and to present cases of violations of housing rights. With this aim, the tool demonstrates the normative content of economic, social and cultural rights, the different levels of protection – national, regional and international – and how this right is affected by political and practical limits. The comparison between the standards established by the right to adequate housing, and the reality will determine the lacunae and the obstacles to its realisation. Further, this allows the affected groups as well as those responsible for the fulfilment of the right to be identified.

To consult the Tool Kit: http://toolkit.hlrn.org
3.1

The right to adequate housing from a gender perspective: Recognition and protection in the international arena

3.1.1 The international legal framework of the right to adequate housing

JOSEPH SCHECHLA, representative of the Habitat International Coalition (HIC)

The right to adequate housing

The right to adequate housing is recognised in the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR), currently ratified by 148 countries.

Specifically, Article 11 establishes that:

**Article 11 (PIDESC)**

The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.

Additionally, there exist other instruments which contain clauses on housing, such as the Universal Declaration of Human Rights of 1948, article 25; the Convention on the Elimination of All Forms of Racial Discrimination (CEDR), Article 5 (e)(iii); the Convention on the Elimination of Discrimination Against Women (CEDAW), Article 14 (2)(h); and the Convention on the Rights of the Child, Article 27 (3).

The content of the right to adequate housing

The institution which has most developed the rights recognised in the ICESCR as well as the obligations placed on the States is the United Nations Committee on Economic, Social and Cultural Rights, through two General Comments, General Comment 4 and General Comment 7.

A) General Comment 4 on the right to adequate housing, by the Committee on Economic, Social and Cultural Rights

General Comment 4 details the scope of the term “adequate” in relation to housing, based on the following elements:

a) **Legal security of tenure.** The occupants of a building should have a type of tenure which awards them security. According to the Convention, the type of tenure does not have to be private ownership, and can be rental, cooperative housing, lease. Security should be awarded against harassment, forced eviction and rising house prices, etc. The Economic, Social and Cultural Rights Committee emphasise that certain groups require particular consideration, such as children, women, the elderly, and people with limited means.

Legal security, de jure and de facto is especially relevant to women suffering from domestic violence. The lack of institutional support makes leaving home difficult, and insecurity of tenure may mean that a woman will chose to continue to live in a situation of abuse. On the other hand, as pointed out by the Special Rapporteur on Adequate Housing, many women who manage to leave the home will continue being victims of violence due to lack of housing. Access to legal title is of particular importance to women when they separate from their partner, especially if they are situations of fact.

b) **The availability of services, materials, facilities and infrastructure.** Adequate housing must contain certain services which are essential for health, security, comfort and nutrition such as access to potable water, sanitation, refuse disposal, electricity and heating and ventilation when required and energy for cooking. Housing should also dispose of community facilities, such as emergency services, public transport and roads in order to have access to other basic resources and for personal development, such as schools, health centres and employment options. The lack of certain facilities in the home endangers women, exposing them to gender-based violence. Also, as it is usually the woman who takes care of the household tasks and of supplying the family with provisions and water, they will be the ones that suffer most from the inadequacies of the housing.
c) Affordability. The costs involved in gaining access to decent housing as well as maintaining it should not compromise the satisfaction of other basic needs. This principle, contrary to the commercialisation of housing is a key element in making the right universal.

d) Habitability. The home should be clean, hygienic and secure. In the case of Spain, this is recognised in legislation on national level as well as in each autonomous community as the responsibility of the owner, and is nowadays one of the main reasons for housing being deemed inadequate.

e) Accessibility. Housing should be accessible to all, especially the elderly and disabled people.

f) Location. The situation of the housing is also an important aspect of its adequacy. It should be in a location which allows access to employment options, schools, health centres, and above all the location should not threaten other rights such as health, family life and intimacy. The adequacy of the housing is therefore considered in terms of its surroundings – rural or urban.

g) Cultural Adequacy. The right to housing includes universal elements, linked to the common needs of people, as well as differentiated elements, related to the culture where they are guaranteed. As a result, housing policies, the distribution of housing and the materials used should enable the expression of cultural identity, and the diversity of locations and groups involved. Housing should respond to the socio-cultural needs of its occupants. This means adapting homes to the new lifestyles and number of occupants (single-parent families, single people, nomads, large families, etc). Also, development should not compromise cultural aspects of housing.

In this respect the right to adequate housing goes further than simply having a roof over one’s head. If one of the elements that constitute the right to adequate housing are not properly guaranteed, in addition to the violation of the right to adequate housing, other rights will be violated, such as the right to health, to a family life, education, dignity, development, etc.

In this sense, certain violations to the right to housing such as forced evictions place lives in danger. For example, forced evictions can represent a form of torture and degrading treatment for the victims, constituting a violation of Article 16 of the Convention against Torture.19

In effect, all human rights are interdependent. For example, the ability to express ourselves in our home, to participate in collective decisions made in our area, and the right to receive information about the place where we live all derive from other civil or political rights that also form part of the right to housing.

A final essential element in explaining the right to adequate housing is the right to return. According to this right, any refugee or displaced person may choose compensation or indemnification for all damage resulting from having had to leave their home against their will. Further, in the case of forced evictions or displacements, the violation of the right to housing also means the violation of the right to security of the person or the right to non-interference with privacy, and could even be considered a threat to their life, given that in most cases of forced evictions or displacements violence will take place.

B) General Comment 7 of the ICESCR on Forced Evictions

General Comment 7 defines forced evictions as “...the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”.

19 Art. 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 10th December 1984: Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.
The Committee on Economic, Social and Cultural Rights emphasises that forced evictions generally violate not only the right to adequate housing, but also other human rights, not only from the International Covenant on Economic, Social and Cultural Rights, but also the civil and political rights of the affected people such as the right to life and the right to security of the person.

General Comment 7 reminds States of their obligation to use "all appropriate means" to promote the rights protected under the Covenant and of the importance of having in place national legislation protecting the population from forced evictions. Such legislation should include measures that provide the greatest possible security of tenure to occupiers of houses and land, conform to the Covenant and are designed to control strictly the circumstances under which evictions may be carried out. General Comment No. 7 also establishes procedural protection which would be applied in relation to forced evictions in order to respect the human rights of the affected persons: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

Finally, the State, responsible for protecting the human rights of its population, must ensure that forced evictions do not constitute a violation of the right to adequate housing. Where those affected are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

**Monitoring strategies for the respect and fulfilment of the right to adequate housing**

Human rights are mechanisms which are of particular relevance in the promotion and development of people.

1. They are a common language for the whole humanity, based on ethic and moral criteria.

2. They constitute a line of communication between the population and the public authorities.

3. They represent a mechanism for protecting individuals and groups from threats to the equal liberty of persons.

4. They help us to build a better world through the affirmation of actions and obligations that the State should carry out, along with preventing future exclusions and violations.

**Monitoring compliance with human rights:**

The monitoring methodology is useful because it provides a base on which we can build cases, argue what the obligations of the State are and examine solutions. The main uses are the following:

- Aids the gathering of information and documentation.
- Facilitates social mobilisation, because the monitoring process must involve the affected community. To obtain their support it is important to construct coherent arguments together and establish procedures to inform the public of the situation, to quantify the losses and damage caused in order to find a suitable indemnisation, etc.

**Obligations placed on States in relation to Economic, Social and Cultural Rights:**

Article 2.1 of the ICESCR highlights the different obligations placed on States:

**Article 2.1 (PIDESC)**

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical,
to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

The Economic, Social and Cultural Rights Committee developed the obligations of States party to the ICESCR. General Comment 3 emphasises the importance of States adopting measures to implement the Covenant. These measures can be administrative as well as legislative, or can include the adoption of specific policies. Such measures must be taken as soon as possible and all resources within the State’s reach should be used. The General Comments elaborated by the Economic, Social and Cultural Rights Committee list three general obligations for States to comply with the ICESCR.

General Comment 4 is on the subject of the right to adequate housing specifically, unlike General Comment 3 and the other General Comments.

**Obligation to respect:** This is a negative obligation according to which States must not take any measures that could impede the exercise of social rights. In the particular case of the right to adequate housing the State has an obligation not to adopt policies or laws which violate the right to adequate housing of its citizens. Ex: The State must not promote illegal evictions.

**Obligation to protect:** States must remain vigilant so that no-one impedes the exercise of social rights. In the fulfilment of this obligation States may limit the ability of private persons whose actions frustrate the exercise of social rights. Such an obligation not only refers to individuals, but in the context of the right to adequate housing public authorities, construction companies, financial institutions, etc., must also be considered. Ex: Housing mobbing.

**Obligation to satisfy:** States have the positive obligation to promote policies and take measures to make effective the rights established in the ICESCR. In the case of the right to housing, the obligation to satisfy is implied from the adoption of housing policies to the enactment of norms and participation. They can also adopt regulations and legal reforms which protect the right to adequate housing.

**Obligation of information and transparency:** States have the obligation to make known laws and dispositions whose purpose is the fulfilment of social rights. Particularly as regards the right to housing, States are obliged to make public and inform its citizens of any projects, plans or programs that might affect their rights. For example, town planning reform.

**General principles**

The obligation placed on States in relation to social rights includes the immediate application of the following principles.

- **Principle of self-determination**

In addition to the wealth owned by communities to dispose of their natural resources. In this way, social capital can be considered an integral part of these resources, the main benefit of which being the ability to mobilise, and the recognition and protection of human rights. People have the right of self-determination as regards their natural resources and their social capital.

**Article 1 (PIDESC)**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. 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 cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

- **Principle of international cooperation**

Among the state obligations listed in Article 2.1 of the ICESCR is the principle of international cooperation. This means that if a State cannot guarantee the protection and respect of rights recognised by the ICESCR, it should seek aid from outside its borders. Other States will be under an obligation to collaborate.
• Principles of progressive realisation and non-retroactivity

Article 2.1 also confirms the principle of progressive realisation, according to which States are under obligation to work efficiently and effectively to achieve the full realisation of social rights. At the same time, this principle emphasises the obligation of non-retroactivity in the fulfilment of rights.

• Principle of non-discrimination

The principle of non-discrimination guarantees the equal treatment of people, no matter what their nationality, gender, race or ethnic origin, religion or beliefs, disabilities, age or sexual orientation. This principle is in answer to the question of “how should States act?”. Is it acceptable for States to promote non-discrimination in a gradual way? Is it legally possible for a State to practice non-discrimination gradually? Can it discriminate for a period of time?

Article 2.2 (PIDESC)
The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The State’s obligations in relation to non-discrimination are immediate. In addition to the obligation of progressive realisation placed on States, there are also immediate obligations such as non-discrimination.

The Convention on the elimination of all forms of Discrimination against Women, from the 18th December 1979, signals the principle of non-discrimination:

Article 3 (CEDAW)
States parties shall take in all field, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

• Principle of the hierarchy of norms

The State must ensure the harmony of its national laws with international law. Often the ratification of an international agreement will oblige the State to amend certain discriminatory laws.

The Vienna Convention on the Law of Treaties, 1969, stipulates that:

Article 27 (Internal law and observance of treaties)
A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

What should be done if a State discriminates and does not guarantee the right to adequate housing?

The Economic, Social and Cultural Rights Committee has affirmed that there are no reasons for which a State can allow people to live in situations of poverty, nor economic crisis.

In order to force the fulfilment of State obligations different mechanisms may be used which are especially devised for the promotion of human rights. The analysis of public budgets, the facilitation of participatory and transparency processes, and political pressure are examples of these mechanisms.

How can a control strategy be developed in order to help create a programme to change the attitudes of States?

One of the ways to begin a complaints procedure and promote rights is to investigate what is said in the legal system, to identify the recognised rights, which international agreements are signed, what are the jurisdictional mechanisms. Once the problems and applicable legislation are identified, a control can be carried out on the activities of the State.

The process of control in relation to a violation of a housing-related right usually contains the following phases:

• Identification and definition of the content of the violated rights. It is important that this analysis is made taking account of both the international laws and national laws that are applicable.
• Identification of resources and of legal sources. For example, access to land is not a right as such, but it is an essential element in the development of a life plan, and in the access to housing.

• Identification of guarantees. It is important to know the guarantees or complaint mechanisms in the different laws or national constitutions. The support of citizen demand is also important.

• Identification of the obstacles: If, for example, the constitutional text contradicts any laws.

• Identification of the affected people: We can identify not only the victims, but also the potential victims (people who could suffer a violation of their rights). It is important to identify this vulnerable group in order to be sure of the violation and in order to establish a programme of remedy and of prevention.

• Identification of the degree of violation: There are methodologies to measure the loss experienced, the costs resulting from the violation. These figures are important as they show the level or degree of violation.

• Identification of the persons responsible: the main role of laws is the establishment of obligations for certain actors. The different actors that are involved must be determined in order to demand compensation and responsibilities.

• Identification of the actions that the State is carrying out to avoid discrimination.

• Evaluation

With all of these points a strategic position can be devised and a platform to enable to choose the most pertinent strategies can be formed.

To take an example, Tatiana Lucido is a Cypriot woman who was thrown out of her house during occupation by another State. In 2000 she presented her case to the European Human Rights Court, bringing an action against the State of Turkey. Today, she is still unable to return to her home. To have a sentence is advancement for all, not only Tatiana, however to be able to use it well we need the knowledge and ability to be able to mobilise the population.

3.1.2 Special Mechanisms for the Protection of Human Rights

MARTA MENDIOLA, Observatori Desc

The so-called special procedures are those mechanisms that have mainly been established by the previous Human Rights Commission and came to light with the objective of promoting human rights, whether through the study of specific subjects or examining the situation in specific countries.

Among the functions of the aforementioned special procedures are analysis of a particular topic or situation that concerns the country in question; advise on the measures the authorities should adopt; alerting the United Nations system about situations that constitute breach of human rights and defend the victims of said breach via, for instance, the taking of urgent actions against the States.\textsuperscript{20}

The main characteristic that makes them different to other organs within the international system of the protection of human rights, along with its independence, concerns the capacity to investigate the state of human rights independent of whether or not the state in question has ratified international treaties on human rights.

Although this aspect is of fundamental importance in order to ensure the universal monitoring of human rights, it is even more important as far as it concerns economic, social and cultural rights.

The consideration by some states that social rights are mere objects of development and not authentic human rights, this conviction resulting in them not ratifying ICESCR, has not been enough to avoid the exam-

inuation of these special procedures concerning the state of social rights within their borders.

On the other hand, the work of the special procedures in the area of social rights has led to the internationalisation of social rights and a greater immediacy in the responses to protecting the victims.

The fact that the International Covenant on Economic, Social and Cultural Rights (ICESCR), a legal instrument that raises these rights to the category of fundamental rights at an international level, has not been provided with a facultative protocol which allows for an individual to make a complaint against a State for breaches of social rights has lead to decades of marginalisation of these rights from international protection and the discrimination of the victim who has suffered the breach.

Thus, the inclusion of social rights within the international legal framework has not been supported by a system of protection and supervision that obliges the States in a manner that corresponds to an international fundamental right, as has occurred in relation to civil and political rights.

The only monitoring system of the States’ obligations that has been incorporated into the ICESCR is the system of periodic reports carried out within the ESCR Committee. Every five years, each Member State has to present a report about the measures that have been adopted and the progress made concerning the compliance with the rights.

Within this framework of the lacking protection of social rights at an international level, the special procedures in the area of social rights presents themselves as an area of unquestionable utility for the work of monitoring done by human rights organisations. However, without a doubt, and more importantly, they constitute a unique arena in the international system of the protection of human rights in which a victim of a breach of their social rights becomes the central character. The urgent actions and the objectives of the special procedures favour and guarantee a more individualised protection and, more importantly, greater speed and pressure on the governments that complete the periodic reports of the ESCR Committee.

Those persons who do not feel that their human rights in relation to housing, food, and health, among other social rights, have not been satisfied have the right to have available a system under which they can make an individual complaint against the measures a State that has discriminated against them in its programmes. While at an international level States continue to debate the recognition of a fundamental right, that victims have access to a legal recourse that complete the guarantees of compliance of social rights, those people who do not have access to these rights deserve to enjoy a more personalised system that takes their situation into consideration and they especially deserve that the international organs of the protection of human rights seek urgent measures that deal with this emergency and that alleviate the helplessness felt due to the breach of the social rights.

In the case of human rights organisations, collaboration with special procedures means another area of work and the social monitoring of the obligations acquired by the States. This job of monitoring of international obligations which a country has acquired voluntarily via the signing of treaties, brings with it very valuable tools, such as recommendations of special procedures and the final observations of the ESCR Committee, among others, which are complementary to those used for monitoring at a national level.

Although the recommendations of the international system of human rights protection itself are not legally binding in character, they are of invaluable political worth and are a valuable complement in applying pressure for the fulfilment of the conditions for a decent life for all of those persons that reside in the State.

3.1.3 The role of the United Nations Special Rapporteur

MILOON KOTHARI, United Nations Special Rapporteur on Adequate Housing

Miloon Kothari was appointed Special Rapporteur on the right to adequate housing for the Human Rights Commission in 2000.

The scope of the work: The Special Rapporteurs supervise the observance of international norms by governments. Each Special Rapporteur focuses his work on a
specific theme or country. Every year they present a report to the Human Rights Commission, today the Council on Human Rights.

In their reports, the Special Rapporteurs present their concerns on the state of human rights in a country, or on a specific subject. Some Special Rapporteurs may place a special emphasis on certain aspects with the aim of bringing them to the attention of the International Community, as the Special Rapporteur on Adequate Housing does for the violation of this right as regards women.

The reports are compiled from studies carried out on the general situation and from missions carried out by the Rapporteurs in the countries concerned. Usually three official visits are carried out per year. During the missions, the Special Rapporteurs interview governmental and non-governmental institutions. In the framework of the missions the civil society plays a very important role, in contradicting the official information provided and in denunciating specific problems or cases.

During the last few years the Special Rapporteur on Adequate Housing has visited Iran, Cambodia, Mexico, Afghanistan and Russia.

Moreover, the Rapporteurs receive denunciations from the victims of human rights violations, in response to which they issue recommendations to the States in question and in certain cases issue warnings to governments with the aim of preventing serious violations of human rights.

The work of the Special Rapporteurs is based on the indivisibility of human rights, which means that it is impossible to separate the different rights, and that they create a unity. In effect, the right to adequate housing is not only a social right, but also incorporates civil aspects such as the respect of dignity and intimacy.

In addition to the Special Rapporteur’s mandate on the right to adequate housing which has given rise to reports in 2002, 2003 and 2005, which are available to all on request, in 2002 the Human Rights Commission requested a study into women and housing.

The right to adequate housing and women

In examining the question of housing in relation to gender, a growing awareness of the problem is noted.

More rights are constantly being recognised, but in practice, governments do not develop policies or programmes that bring any real recognition, protection or compensation of violated rights. However, the legal or constitutional recognition of these rights (in this case the right to adequate housing) offers the possibility of demanding that the public authorities act in favour of their protection, and do not create laws or carry out actions which would go against them.

The other problem in relation to legislation is its neutrality as regards gender. The situation of vulnerability in which women find themselves is not always recognised, and therefore no action is taken to protect them or to improve their living conditions.

There are two aspects of particular relevance:

• **The conflict between laws:** usually States, through their constitutions and through International Human Rights Law, recognise equal rights for men and women, but at the same time national legislation can be discriminatory. In the case of inconsistency derogation from the discriminatory law must be compelled.

• **Patriarchy and subordination of women:** discriminatory treatment against women is usually the product of social and cultural guidelines and behaviour, where patriarchy forms part of social and judicial organisation. It is therefore necessary to pressurise the public authorities, especially the legislative and executive powers, so that they promote laws and policies geared towards changing the cultural conception that exists as regards women.

With the aim of protecting and guaranteeing women’s right to adequate housing, it is extremely important to form a status that recognises and protects the right to self-determination of human beings. At the same time, legal, social, cultural and political elements that favour discriminatory treatment should be eliminated. In order to do this, the United Nations, together with civil society, must place pressure on the public authorities so that they repeal discriminatory laws and promote programmes and policies that favour women.
3.1.4 Difficulties faced by women in accessing adequate housing

YAKIN ERTRÜK, United Nations Special Rapporteur on Violence Against Women.

A man’s home is his castle. For a man the home is his refuge. While he may be faced with exterior suppression, notwithstanding his financial, political or military power, man will find the protection and security he needs in his home. This is true of many cultures and is reflected in language, expressions used often depicting the man as the king of the home.

For a woman, on the other hand, the home can turn out to be a place where her physical and moral integrity are threatened. Independently of the place they occupy in society, all women are at risk of being the victim of violence, internally, within the home, or externally, violence experienced in public spaces. This also extends to the international sphere. If a woman’s status or social class is analysed, it can be seen that she is subject to different types of discrimination at work, in society, and in the family, etc. Although the traditional patriarchy has eroded in many places, it is still the dominant parameter for conduct in society. It can be said that discrimination against women is a reality that is present to some extent in all cultures, beginning in the home and extending to different places or spheres that play a role in the daily life of a woman.

The notion of inequality between men and women is a cultural element that is ingrained in the history of people; different cultures having developed under structures of power that without doubt reflect sexual discrimination in all social spheres. Faced with this cultural panorama society cannot close its eyes to violence against women by arguing that these are issues of private and family life. No kind of violence can be accepted, and more importantly the inactivity of the State or of society itself cannot be justified when a woman’s rights and integrity are being violated.

The subject of violence and discrimination against women has been included in the political agenda of the United Nations for many years. From the outset the Human Rights Commission focused its work on the fight against discrimination. In this context the first gender-related demands were achieved in the recognition and comparison of rights such as the right to vote, to education and to healthcare in countries where the legislation either did not recognise them or established discriminatory policies as regards the exercise of those rights.

During the 1970s the end of colonisation brought a social change, creating new demands. Women began to claim new needs and in order to reflect this revolution in the subject of gender equality the United Nations began to recognise the development of the role of women as a basic principle in their agenda. There was no sufficient formal recognition in the legal and constitutional texts of the States, therefore new active policies against discrimination against women would have to be created and promoted.

A cornerstone of this period of change was the Convention on the Elimination of all forms of Discrimination against Women, of the 18 December 1979 (CEDAW). The different World Conferences on Women were also important steps; Mexico being the first (1975), followed by Copenhagen (1980), Nairobi (1985), and Beijing (1995). In the last conference more than 30,000 participants discussed the most burning issues. Significant progress was made every year, until finally, in the 1990s women’s rights; their protection and non-discrimination were connected to human rights.

In 1993 the General Assembly of the United Nations adopted a Declaration on the Elimination of Violence against Women. This defined violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”21 This definition links violence against women to the dis-

crimination suffered by women, as highlighted in General Comment No. 19 of the CEDAW Committee.

A very important step in the fight against gender discrimination and women’s rights is bringing to light all the discriminatory elements that exist in legislation that appear neutral, that is to say indirect or reverse discrimination. It is also important that violations to the rights and integrity of women are not considered as a private life issue, but as a problem that affects the public sphere, and that calls on the whole of society and especially the State to act, avoid and protect all women against aggression and legal, social and cultural discrimination.

The obligations assumed by States in signing and ratifying different treaties includes due diligence, in other words, they must not only react against violence, but they must prevent and work towards a change in society. In this sense, it is essential to analyse in detail the interventions of the State and regulations on subjects such as marriage, taxes, inheritance, the acquisition of goods, access to benefits, etc.

**Why is it important to define violence against women as a violation of fundamental rights?**

Defining violence against women as a violation of fundamental rights means that International Law will protect all legal breaches because they violate women’s rights. In the first place, this means that faced with a violation of a woman’s rights in the case of exhaustion of all internal judicial remedies of the country in question, the victim will have access to International Courts. Secondly, this means the recognition of the right to asylum and refuge for women who have been the subject of violence in their countries of origin. Lastly, it has the result of bringing the violation outside of the family or private sphere, making it be considered a subject that concerns and jeopardises the whole of the international community.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), of the 16th December 1996; the Convention on the Elimination of Discrimination Against Women of 1979 and its facultative protocol of the 10th December 1999, are International Law norms that, when signed and ratified by the member States, are placed above the national judicial system. Unfortunately, in reality in many States internal laws prevail over International Law. In these cases the supremacy of the national codes are legitimised through the practice of signing international conventions including reservation clauses. The action of the civil society therefore becomes important in pressuring States to withdraw the reservations, give priority to International Law, and that they repeal internal laws that directly or indirectly violate the rights of women.

The creation of the United Nations Special Rapporteur on Violence against Women in 1994 is an important factor in the fight against gender-based violence because it established a line of communication between women and the United Nations. Women, since then, possess an instrument for denunciating the violation of their rights.

This is a very useful mechanism for the United Nations because it allows cases of violations of women’s rights to be known and to be analysed, many of which would not otherwise come to the attention of the United Nations. With this new Rapporteur comes the possibility of communicating with governments in order to request explications for violations and to recommend ways to eliminate violence against women on regional, national and international levels.

At the same time, the creation of the Special Rapporteur on Violence against Women allows for the monitoring of action taken by States in order to reinstate violated rights. In most cases the results are positive. In short, the Special Rapporteurs are the lines through which the United Nations can collaborate with civil society. The work of the Special Rapporteur will not change the world, but they are nevertheless a very important mechanism for exerting pressure on the government concerned.

The Special Rapporteur replies to individuals and groups in relation to the denunciations. Sometimes, if the situation is extremely serious the Rapporteur can issue a public report or joint declaration, which have a significant influence on the civil society and on the State. If the information is credible it can place a lot of pressure on the State governments to take action.

At the end of each year reports are written up and communications sent to each government with the corresponding solutions. These are instruments which give more power to the civil society to pressure states and to achieve fuller recognition.
3.1.5 Debate with the specials rapporteurs, Miloon Kothari and Yakin Ertrük

Ourida (Algeria): What can be done about reservations made by countries in relation to International treaties, such as the Convention on the Elimination of all forms of Discrimination against Women? How can a country be pressurised into withdrawing its reservations?

Yakin Ertrük (RE): The internal lobby is extremely important, as well as communication with experts that are members of the CEDAW Committee. It is also important to use the travels of the Special Rapporteurs. If I carry out a mission in Algeria, I can recommend the withdrawal of reservations, and this carries some weight. The Protocol to the CEDAW allows for the receipt of communications and allows the Committee to carry out investigations. I’ll give you the example of a Hungarian woman, divorced for 10 years, who claimed that she had suffered violence and that the State had not protected her. She presented the CEDAW Committee with a communication, who then, in their resolution, found against the State for not having protected the woman.

Miloon Kothari (SR): In paragraph 17 of the 2003 Report on the right to decent housing that we have previously referred to, there is a reference to this very case. I don’t think that the civil society has a sufficient lobby at internal level in order to eliminate reservations. More work must be done in this field.

How transparent are these reports? What happens if the victims wish to remain anonymous, but on the other hand, in terms of the press what isn’t heard does not exist? What can be done?

Miloon Kothari (SR): Non-governmental organisations (NGOs) may decide that they wish to remain anonymous and this is respected. Communications are anonymous and are published in the annual reports that summarise the annual work of the Rapporteurs. One possibility for small NGOs that feel threatened or wish to maintain their anonymity is to make a report via an international NGO.

Also, if there is a systematic frame for violations a joint communication can be made by the Rapporteurs, which renders the situation more transparent. As we can see, there are different mechanisms depending on the case; however the problem is that the civil society does not have sufficient knowledge of these mechanisms.

Najat (Morocco): taking into account the lack of truthfulness in the newspapers of States, could reports from the civil society be sent directly to the Rapporteurs? While it is true that in Morocco advancements are being made in the field of human rights, the reports exaggerate these advancements. What mechanisms does the UN have to monitor the respect for human rights at international level? We, as an organisation, produce reports, but the States do not present them or make them public.

Miloon Kothari (SR): The High Commissioner on Human Rights has specific offices in different countries where reports can be sent. It is important that the reports are adapted to those who receive them, that the information is concrete and up to date and relates to key issues, and in order to achieve this, different mechanisms are put in place.

Joseph Schechla (HIC): I wanted to highlight the importance of having a strategic plan. There are procedures that exist for this that are explained in the page on House and Land Rights that would be useful to consult.

Marta Mendiola (OBSERVATORI DESC): It is important to use the observations made by the Committee on each country. The support of International Organisations is also important when presenting alternative reports, so that they can expert pressure.

Ourida (Algeria): In Algeria the family code contradicts the rest of the laws. In theory there is no discrimination in the laws, but in practice they tend to favour men.

Najat (Morocco): I think that in North African Countries there is always a contradiction between the constitution and the laws that regulate the ownership of goods between men and women. According to the Moroccan Constitution all people have rights, but the law on inheritance deprive women of the ability to have
It is a fight for rights, for democracy and against oppression. The fight against patriarchy is enormous. Only through fighting and demanding can we oblige States to change their attitudes. Globalisation helps to establish networks and exchanges so that problems are seen at an international level. We must share and create a flow of information.

Nassima (Algeria): In Algeria violence against women is a taboo that even organisations and health centres share, and for this reason it is practically impossible to make cases of violence public. Women that suffer violence are isolated and do not know what procedures are available. They do not have the resources or the knowledge required. Presence in and access to rural areas is very difficult, especially in the international sphere. How can we ensure that the Algerian State commits itself properly? What can be done so that the State recognises that there are serious problems?

Miloon Kothari (SR): It is a fight for rights, for democracy and against oppression. The fight against patriarchy is enormous. Only through fighting and demanding can we oblige States to change their attitudes. Globalisation helps to establish networks and exchanges so that problems are seen at an international level. We must share and create a flow of information.

Nassima: What is the position on amnesty for the crime of rape? Because in this way there are no guilty people, no justice...

Yakin Ertrük (RE): Impunity is controversial. It has always been this way in El Salvador, Guatemala, and in many other countries. But rape, since it occurred in what was previously Yugoslavia, has been defined as a crime against human rights and has been added to important international agreements such as the Rome Statute of the International Criminal Court, of 1998. This represents an extremely important step in the fight against impunity.

**3.2**

**Practical Exercises**

**3.2.1 Case Study: The use of the tool kit in the elaboration of cases of violation of the right to housing**

Based on the information received, a situation of violation of the right to housing was exemplified in relation to one of its components: Affordability.

The first aspect to stress is the violation of the right to adequate housing, even though this is the violation of only one of the elements that constitute this right.

The Tool Kit suggests ten basic steps to follow in the analysis:

- Concept and meaning of the violated element
- Norms Applicable
- General principles of application
- Guarantees
- Obstacles, hindrances and barriers
- The victims and the vulnerable: the actors
- Losses/consequences
- People responsible; directly and subsidiary
- Actions
- Evaluation and monitoring

**1) Concept and meaning**

Define as specifically as possible the content of the right which has not been fulfilled. Here, for example, affordability means that the payment of rent should not mean the compromise of a person’s other basic needs, such as food, services, education. Even though there is no regulation in this respect, it is usually established that the cost of housing should not be higher than a third of a person’s income.

**2) Sources**

The analysis of sources is the analysis of the different national and international legal norms, but also popular sources or moral arguments. The latter is particularly important when the law is not sufficiently specif-
ic or when there are problems in its content. With respect to the affordability aspect there is an inventory of legal sources that confirm and verify this element of the right to adequate housing.

It is nevertheless important to differentiate the degrees of each source. An international human rights treaty which is binding on a State, for example, has more legal force than a declaration. On a general scale, declarations are expressions of political will, but are not binding in nature. They can serve as a moral base, but not legal. However, certain declarations such as the Universal Declaration of Human Rights is so respected that it is considered legally binding.

The Declaration on Cities and other Human Settlements in the New Millennium (2001), the Copenhagen Declaration on Social Development (1995), and the Jerusalem Declaration (1995) on the right to adequate housing are examples of sources, which while not binding, are of great use because of their affirmation of concepts and principles contained in international law.

Regional treaties (such as the European Social Charter of 1961 and the European Charter for the Safeguarding of Human Rights in the City), are also legal sources to be considered.

**3) General Principles**

The main role of the general principles is that they constitute immediate mandates for the public authorities, who should integrate them in their different actions.

- Self-determination
- Non-discrimination
- Equality between men and women
- Rule of law
- Non-retroactivity
- International cooperation

**4) Guarantees**

Once the different sources and principles are identified, we must consider what other methods or mechanisms can be used to make demands, to make effective the right in question. What forms of protection exist? Has the State ratified an international law? There is a link between the different types: has the State ratified a treaty and is it applied in local law? Does the Constitution recognise fundamental human rights and general principles? Are there local laws which apply these principles? Are there formal institutions, ministries and organisations that guarantee economic accessibility for women? What is the influence of budgets?

To evaluate the guarantees in place in each country as regards the application of the human right to adequate housing, we must go from the general to the specific, focusing on:

- International/regional treaties.
- Constitutional dispositions.
- National and local legal framework.
- Institutions linked to the right.
- Public policies.
- Action programmes: mostly based on systematic policies and efforts.
- Projects: with a more temporary and localised application.
- Budgets from public institutions.

For each guarantee the Tool Kit provides a series of questions. The model list of questions helps to analyse...
situations and contexts. The positive points are examined, in order to identify the strengths.

The opposing questions are also asked, this time in order to identify the weakest points: what is missing, what obstacles or barriers exist, etc. (for example, that there is a law on the right to adequate housing, but that this is not applied. The questions help to form conclusions, and serve as a guide.

There is a straightforward guide on budgetary issues in order to analyse a budget from a human rights point of view. It is a relatively new field, but brilliant and innovative work on budgets in Bangladesh (and how this affects education), on Mexico, the Philippines, and Palestine already exist. In Egypt a new sanitation law has been analysed in light of the World Trade Organisation’s restrictions and how the state budget yields under the said restrictions.

5) Actors: victims and vulnerable persons

The Tool Kit contains a series of questions to explain who are the victims of the cases being studied and what conditions they live in. Do they suffer from multiple discriminations? What is their situation? These questions help to identify any links in the discrimination in order to explain to the public what makes this particular group.

Until now the term ‘victims’ has been used, but this may change as it has been proved that the actual victims dislike being called this as it suggests that they are passive, and this is not the case. In fact, the Tool Kit provides tools so that people can fight for themselves.

In this section there are also formulas for collecting facts on the violation of housing rights based on the experiences of the affected person.

6) Losses / consequences

When there is a violation of rights there will always be consequences: moral losses, pain, lost opportunities, costs. This is one of the most important parts of an argument; showing the consequences, difficulties and facts, etc., based on the facts of the case.

The methodology of the Tool Kit explains the methods for quantification. This is used for many aims: investment, a legal defence where the degree of violation must be shown, to show the costs of a certain policy or the situation of a market dominated by the real estate industry, etc. What has been lost? There are many instructions on how to proceed, including examples of cases of eviction and expropriation, etc.

Different categories of losses are quantified:

- The victim’s material losses
- The victim’s non-material losses
- Material losses of people affected indirectly (public costs)
- Non-material losses of people affected indirectly (including social costs)

It is important to remember that human rights should be protected even before a violation has taken place.

Example: In Surabaya, Indonesia, after the tsunami, the preventative measures used consisted in creating an inventory of all that had been built (roads, schools, etc.), quantifying the value of the materials. On one hand they found out that they were identified as poor, but on the other hand they realised that they had assets with a determined value and that they should defend them. They did not possess any legal titles of ownership, but they showed that what they had built had a value and could be protected by the law. When the Government tried to re-house them they used these documents to demand improvements, negotiating with the government in an equal way.

7) Identification of the actors responsible, directly and subsidiary

In other words, to whom must we demand responsibility? To answer this, we need to know who is responsible, directly and subsidiary. The authorities are mainly responsible, but there are other actors, at local level (industries, banks, businesses) and extraterritorial (the World Bank, the Monetary Fund)...
3.2.2 A discussion with the participants

Vasia (Greece): If my country hasn’t ratified any of these what can I do? And if I see that it is not respected and I’m aware of it?

Joseph Schechla (HIC): If you know what the violation is, or if you know that the Constitution breaches a guarantee you can start there. You’ll have already done the mental process of seeing that something is not as it should be, but in order to argue it more fundamental information will be required. The tools that we have must be used, as there is no point in simply recognising a problem without using tools for arguing your case. Sources must be used to do this. This process can be extremely useful for discovering other resources or tools that can be used, making our arguments more solid.

Vasia (Greece): Although the State is the first culprit, there could be others that we don’t know exist. Must we try to find out who they are?

Joseph Schechla (HIC): Yes, it’s very important. You must work in a network to uncover these actors and this methodology should be used so that no-one is forgotten.

Rojbin (Turkey): According to the Turkish Constitution everyone has the right to equality and to have a home. This is the Turkish legal framework, but we have so many problems... and further, there are so many people that don’t know that these rights exist... If I know that these rights existed it could be more useful for my clients. But I think that the responsibility of the State is key because it is responsible for the living conditions of its citizens.

Joseph Schechla (HIC): Now you know. Now you have the legal instrument. Legally, the State has to guarantee this right. If there is a monopoly, not only the market is responsible; at the end of the day it is the State that is responsible, and this is the law and there are instruments to argue it. It isn’t a question of what I think or of how I perceive something; there is a legal text behind it. There is a series of obligations placed upon the State (such as respecting, avoiding shortages, protecting and defending those that suffer from shortages and offering solutions in the form of aid and justice to those who need it) that people are within their right to demand.

Joseph Schechla (HIC): It’s clear that taking each element and subjecting it to these ten steps is a lot of work for one person or organisation, but the important thing is to see that we have a base that we can use to defend our rights, although it is hard work.

Rojbin (Turkey): Having a home also means having sanitation, doesn’t it?

Joseph Schechla (HIC): Yes. These are public services needed in our lives. If our home does not have access to sanitary services we need to demand a solution to this problem, which affects the right to adequate housing.

Rojbin (Turkey): My town does not have a doctor and we have had a lot of deaths because when women give birth we do not have any gynaecologists, nor the necessary instruments or hospitals. I’m going to take a case against the State for a woman who lost her baby and died as well.

Joseph Schechla (HIC): This is a bit far from the right to adequate housing, but this methodology can also be applied to the right to the highest attainable standard of health.

Rojbin (Turkey): In my town there are 1,000 refugees. Turkey has geographical limits for refugees and will only accept them as asylum seekers. There are many problems with female refugees, many of whom are alone and have suffered horrific domestic violence, but we don’t have anywhere to place them and some have turned to prostitution. How can we defend their rights through the methodology of the defence of the right to adequate housing?

Joseph Schechla (HIC): All over the world there are many women that are dependent on their husbands financially and when there is domestic violence they cannot escape. To protect women in situations such as these policy and legislation reforms are needed in their countries.

Nassima (Algeria): Women in rural Algeria have asked for help in order to restore their homes and in order to receive benefits. The State has given some money, making them sign papers as if their right to adequate housing was therefore covered. The State says that it has fulfilled its obligations in respect to the right to adequate housing, but in reality its contributions are ridiculous. It is as if the State has carried out its obligations, but with this money the families have been unable to do anything. It’s a symbolic aid in the framework of the
right to relocation, but these people are unable to have access to any loans, and neither can they put their names on the register of people without income.

Joseph Schechla (HIC): There is always the possibility of continuing, of re-opening a case, to argue it, strengthen it... This Tool Kit contains legal and moral parts as well as statistics, and this should help us, in the process of argumentation, to know how to expound it, and how to place political and moral pressure upon the authorities and oblige them to correct the situation.

Nassima (Algeria): According to what we said in the last session, one element of the right to adequate housing is the availability of services, facilities and infrastructure. But if there is no doctor in the area, rights remain violated. If our country hasn't signed anything, can we carry out campaigns to pressure it into signing? How can we make the public aware that these treaties haven't been signed?

Joseph Schechla (HIC): Maybe another convention was ratified which included the right to adequate housing in some way. This isn't only the methodology for human rights professionals, but also for policy makers. What's more, all of the countries that are represented today have signed and ratified agreements that we can use to pressure them.

Rojbin (Turkey): I was thinking of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction (1997), and I think that there should be a list of guarantees, because it is to do with living in a safe place, and in areas of conflict the problem of land mines is very serious.

Joseph Schechla (HIC): Yes, certainly. We have used it in cases in Palestine, the Golan Heights and in Cambodia.

Melina (Croatia): I would like to talk about the role of the media, which we haven’t mentioned, but which is extremely important in making people listen. The media can be used to inform people about an issue and to raise awareness. Being a reference for the media is complicated, but it works, and is particularly important.

Joseph Schechla (HIC): Yes, but we need discipline, time and effort. We can use this methodology to educate the media so that it knows how to take the point of view of the victims, how to ask questions, etc. But this is useful too.

Miloon Koothari (SR): To answer the question on access to health care, this comes under the right to health, which is linked to the right to adequate housing through the principle of indivisibility. Transport, education, water, etc., also count.

In relation to the question of whether a State has failed to ratify any document; the truth is that this is rare. All have ratified, as a minimum, the 1989 Convention on the Rights of the Child (apart from the USA and Somalia). The Universal Declaration applies to all countries and has a wide presence. It is not necessary to limit yourself to whether the country in question has ratified a particular document or not; there are other sources.

Yakin Ertürk (RE): The issue of refugees is one that interests us all. It can become a problem in many places and these mechanisms, if used effectively, can obtain good results. Support can be asked from NGOs and international organisations as well.

3.2.3 Practical exercise: the role of gender in access to adequate housing

Joseph Schechla (HIC): The first part of the Tool Kit is legal security of tenure: why is legal security of tenure for housing so important in the case of women?

Manuela (Spain): Because it is the ability to have a home and to keep it. That means having present and future security that you won’t be thrown out; that an external event will not lead to your eviction.

Nassima (Algeria): In my country this is an important issue as there have already been cases of women losing their homes as a result of divorcing their husbands. If they do not have children the decision is left to a judge. They have no shelter or safety in that sense. Another problem is that in Algeria housing is not normally in the name of the woman, even if she pays for it. The same is true for plots of land. It is preferred that men make administrative payments to buy housing or to rent. The woman will not go to a public place to complete documents. Women themselves cannot imagine the consequences of this type of practice.

Najat (Tunisia): Female immigrants that work in their host countries for 30 years (and whose families buy
land in their country of origin with this money) in the end find themselves without a home because everything is in the name of the husband. Women have to ensure that it is in their name having contributed towards paying for and educating their children or having looked after the home, which is also work. Our association has received women with these kinds of cases who suffer from complete insecurity.

Joseph Schechla (HIC): Almost everywhere, housing is owned by the man or in some places it is jointly owned. It is important that countries recognise the right of women to have a home in their own name, because otherwise they can be thrown out and left without any rights. They can also lose their rights in relation to their children.

What other threats do women face with regards to this? Violence, access to their children... any more?

Claude (France): There are women who have never worked outside of their home and find themselves divorced in their forties, with judgements that do not give them enough material guarantees to be able to have a house. Their only solution is to stay with relations, which is unfair after having worked for 20 years in the house, raising the children. There are other examples of female immigrants from polygamous families, such as women from Mali. When a woman wants to leave the home, she will have a lot of trouble finding housing in France.

Cristina (Italy): In Italy, the proprietary rights of women are recognised; in theory there is no difference. In practice, however, women experience problems. In the case of separation, a judge will award the house to the woman because they are usually entrusted with the care of the children. But the man, in many cases, before the sentence, will physically threaten the woman into giving up the house, leaving it to him. Other times she will be left with the house and children, but the husband will not give her money to look after them. The woman is therefore unable to look after the house properly or cannot pay the mortgage, and can end up evicted as a result of insolvency.

Yakin Ertrük (SR): I’d like to take the example of Algeria, on the reform of a law that specified that a husband should provide housing for the wife in the case of divorce if she kept the kids. However, if she did not have custody, she would find herself on the streets. It’s a very rigid and hard law. What happens if they do not have any children? We must consider the category of women. Spanish law defines women who are the subject of gender violence as a priority group for receiving aid for housing, and this is something important.

Manuela (España): In Spain, with the Ley de protección integral contra la violencia de género (Integral Protection against Gender-based violence Act, Organic law 1/2004, 28th December), women have the right to have access to State housing, but there are no public promotion houses, only official protection ones, with an expensive mortgage and affixed contract, which means that victims of gender-based violence cannot go to live in them. The municipal council provides rented accommodation for two years and then abandons them. The woman in question is supposed to make herself self-sufficient for life during these two years, but this is something difficult to achieve nowadays. There is also a subsidy for victims of gender-based violence, but the State thinks that a woman can survive on only 300 Euros a month. The only option left to them is to return to their husbands or turn to prostitution in order to make enough money to survive.

Mª Inés (Spain): In the case of an immigrant who is married with a Spaniard, if he abuses her he can threaten to have her deported. The woman will find herself living in a far away country, on the streets, rejected by society, and with health problems (mainly psychological), etc. and all of this results in female immigrants having many problems as regards housing. If she legally separates from her husband she will be left irregular, or without papers. Thus it will be extremely difficult to find work. She will not have any social rights because she will not have any access to social services or to education, healthcare, etc. Being a housewife makes their rights vulnerable because they are subject to a special, not general social security. This is like a prison.

Manuela (Spain): Women who are immigrants cannot seek asylum for situations of risk either. Spanish law protects Spanish women, but irregular women must be regularised in some way. An immigrant who is married to a Spaniard and has Spanish children can acquire Spanish nationality after a year. However, if the husband is unwilling while they are married, she will be unable to do so if they divorce.
Joseph Schechla (HIC): When presenting cases, if you know what right is being violated, the tool kit can be an extremely useful tool.

Najat (Morocco): With regard to the 1984 Family Code, often the mother gains custody of the children upon divorce, however, the father remains their legal guardian. Following amendments made to the Code last year, women can now remain in the home, but only if she has the financial means to maintain it. But for women who do not have the means, do they have any right to keep their home? How will they feed their children? The State must intervene in the matter. An adequate social policy is needed for these women and their children.

Rojbin (Turkey): According to Turkish law, men can only marry once, and if they have more than one wife they will be punished. In reality there are polygamous men, but they only have one official marriage. The other wives do not own an official marriage certificate and so cannot claim anything, and have no rights. The law is lacking because there is nothing that can be done. These women have no legal security whatsoever. The majority have nowhere to go to, nor can they report domestic violence. There is also a tradition according to which women cannot inherit property. Legally it is possible, but in some areas tradition makes this impossible. A woman who seeks to inherit from her father is shamed and if it goes to court she will be socially excluded.

Miloon Kothari (SR): The subject of cultural traditions is very important because sometimes they do not correspond with the law and this means that women are deprived of rights that are legally recognised. We have asked States to overcome these cultural hurdles.

Yakin Ertrük (SR): The problem of multiple wives is a serious one because the law is based on monogamy and there are many women who do not own official marriage certificates. Should the State recognise these traditions or change them? Many of these practices also overlap with questions of ethnicity, which is something that must also be taken into account.

Miloon Kothari (SR): The State has multiple obligations. It must project the most vulnerable women and pass laws to do this. This is better than trying to change traditions. I think that it’s a question of equality.

3.2.4 Multiple discrimination

Lourdes Rios (OBSERVATORI DESC): Under different contexts, women can be subjected to different types of discrimination. The universal aspect of patriarchy makes us equal, but we know that not all women are the same (in terms of religion, ethnicity, class...), and that these differences overlap so that women might be faced with twice or thrice the discrimination. Women have a common denominator, but are fragmented in the community, and as a result they are submitted to different forms of discrimination. And now, in order to develop the concept of “multiple discrimination”, we will carry out an activity in which each participant will recount an example of multiple discrimination that we live or might live through as women.

Miloon Koothari (SR): An example of multiple discrimination can be found in Fiji: the victims are women who are indigenous, and disabled. How many layers of discrimination are experienced by these people? At least four, (women, poor, indigenous and disabled). If we can identify the different forms of discrimination we can think about what the State should be doing to palliate them.

Paola Cyment (OBSERVATORI DESC): Another example of multiple discrimination is that of refugees in the Ban area of Turkey, who are discriminated against because they are women, because they do not have recognition as refugees, for being foreign, and for having a different ethnicity, for example....

Vanessa Valiño (OBSERVATORI DESC): In the case of Spain, until now all immigrant women have been put together in the access to decent housing, however this is a mistake. It is not the same for an immigrant from South America, who knows the language, as it is for an immigrant from Africa, for example, who does not know how to speak Spanish and has a different culture, etc. We need to go deeper in these situations that make the access to different rights more difficult. It must not be forgotten that women will have different problems, and that they are not all the same as a category.

Cristina (Italy): We have realised that those who do not have the right to housing also fail to have access to other rights. Globalisation has ruined everything, because the State has sold everything, including protected housing. One female immigrant in Italy does not have
the right to bring over her children if she does not have a big house and pay taxes, etc. If it is difficult to gain access to housing in normal circumstances, then imagine how it is for her. These women suffer from multiple discrimination because they are women, and are poor or foreign.

**Manuela (Spain):** Women of Roma origin who suffer from gender violence face many hurdles in order to make it public. Their families prohibit them to report it or to separate from their husbands, and if the woman does so she will have no protection. The children will not be able to see their relations as they are excluded from the family. Many of them do not know how to read or write, which makes it impossible for them to ask for benefits or to obtain employment. It is difficult to make them understand that violence is not something that they need to normalise in their lives. They do not want to listen to you because they may end up lacking socially and in terms of their family.

**Yakin Ertrük (SR):** In the case of Romani women, if they go to the Police to report domestic violence, how do they Police treat it? Is there any discrimination against them because of biased views held by the Police? These women are abused at home, and at the same time are treated badly by the Police just for being of Roma origin. They suffer a double discrimination. The key is to see how their experience as a woman and other characteristics affect them.

**Claude (France):** I’d like to highlight once again the case of a community of women in France that are extremely vulnerable; Muslim immigrants living in polygamous families. It is difficult to find housing for such big families. When women want to leave the house they come across numerous problems; obtaining papers (the bureaucracy and the Police impose barriers); they do not have sufficient resources; if they do not work it is extremely difficult to find housing, etc. They are in a very precarious position. They are discriminated against for being foreign women and for being from a polygamous family. Further, in France there is a large hostility against these people, mainly because polygamy is neither understood nor recognised. Normally they suggest that they return to their country and separate themselves from their children. In Paris there was a growing hostility against them and various buildings were set on fire, and there were some deaths (including of children). Nothing can be proved, but it is thought that it was arson.

**Rojbin (Turkey):** More than 15 million Kurdish people live in Turkey and they are not officially recognised. They do not have the right to receive education in their own languages nor to speak Kurdish. On the subject of women, they do not have any legal security and there are deep-rooted social norms, which discriminate against them. Women cannot go to school because in most places there are no schools. They can’t speak Kurdish, and do not have any sanitation. When they arrive in the cities they cannot go to the Police to report domestic violence or look for work because they do not speak Turkish. These women suffer from double discrimination for being women and for being of Kurdish ethnicity.

**Yakin Ertrük (SR):** Women are faced with a double patriarchy; within the community and within the State. For example, in the Muslim community women are perceived as a scoreboard for their culture. They have very strict rules concerning women; they are shut up in their homes and honour killings take place, etc. This takes place in European communities too. Then, society at large also imposes rules on these communities, and in this way women suffer discrimination in both places. It’s as if there were two types of masculinity, two types of masculine patriarchal systems that rule over women, creating a double stigma, suffering from discrimination inside and outside of their own communities. Another kind of discrimination which girls suffer is poverty or discrimination as regards education (they are not allowed to go to school for fear that they will be influenced and will lose their customs). So we can see that girls suffer from discrimination just for being girls... for being women, poor, indigenous, etc. If they are HIV-positive it is a fourth discrimination. If they are prostitutes or homeless more layers of discrimination will be added and the problem aggravated.

**Lourdes Ríos (OBSERVATORI DESC):** In Spain, housing is very expensive and there’s a lack of mortgages to enable people to pay for it. The law allows men and women to ask for a mortgage, but the banks discriminate against women and often ask the husbands to be guarantors if they have little education or if their jobs are not permanent.

**Paola Cyment (OBSERVATORI DESC):** Being a member of another ethnicity or culture also involves having multiple identities, and this can strengthen a woman. Being a member of an association of immigrants, or of
Moroccans, for example, provides strength in union. This is the other side of the coin.

**Yakin Ertrük (SR):** Of course. Having multiple identities is not a bad thing. The problem is how we perceive it, and how laws, institutions, and traditions are formed. The assimilation models aren’t working. Multiculturalism recognises multicultural groups, but other problems still exist. Canada is multicultural, and its laws are designed to respect this fact, but last year there was a dispute in Ontario on a law on commercial transactions. The Muslim community challenged the system, saying that they wanted to use the Sharia. There are problems when certain identities want to maintain their traditions, which do not always go along with the laws of the country. This is a problem which we need to think about because it will happen more and more all the time.

**Ourida (Algeria):** The Muslim community does not protect its women, and is even violent with them. It annoys me that European policies participate and contribute to these policies, legitimising them, by saying “we’ll leave these communities alone, they organise themselves”. No, they need to support women.

**Najat (Morocco):** Being Muslim is a part of our identity, but it is not the totality of our identity. Our policies instrumentalise this Muslim identity and the fundamentalists instrumentalise it even more. If we are in a country, we should respect the laws of that country.

The new Family Code recognises rights for women, but the problem is their application. Many judges have conservative mentalities and do not want to apply the law, which affects the rights of women. We need means to allow the civil society to exert pressure so that these laws are applied.

**3.2.5 Presentation of cases by group and thematic axes**

In order to carry out this exercise, the participants were divided into four groups, which were assigned four different themes. They prepared and presented a case of violation of the right to adequate housing using the methodology of the Tool Kit.

**Housing, women and discrimination against national minorities**

**El caso de las mujeres saharauis:**

There are Saharan women who have been refugees for thirty years and are still waiting for a solution. The United Nations Mission for the Referendum in Western Sahara (MINURSO) is present in the territory, but there remain difficulties in reaching a solution. They are not in a situation of war, but neither is there peace. There is currently a rebellion taking place in the occupied territories. There are women who have spent between fifteen and twenty years in prison. Many families are separated and many women are in need of psychological attention.

These women suffer from multiple discrimination because they are women, are poor, are the victims of torture and rape, imprisonment, etc. They do not suffer violence at the hands of their husbands, but from other men. Further, they are submitted to Moroccan law and their property rights and protection against eviction are not respected.

**Sources:** The International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR) and the Convention on the Elimination of all forms of Discrimination Against Women of 1979 (CEDAW).

**Principles:** Self-determination and non-discrimination, equality between men and women, international cooperation and non-retroactivity.

**Guarantees:** Morocco has ratified the CEDAW (21st July 1993) and the ICESCR (3RD August 1979).

**Threats and obstacles:** racism, armed conflict and the inadequate application of laws.

**Manuela (Spain):** Is there any alternative solution to the problem? Have you seen any with your organisations?

**Simona (Italy):** Thinking of a possible solution, maybe it would be good to call for the aid of international cooperation in order to apply a law that guarantees that Morocco respects the ICESCR that it has signed.

**Joseph Schechla (HIC):** Were you thinking of the right to housing and the right to return?
Simona (Italy): In the sense that we ask for international cooperation in order to give value to the right to self-determination and so that refugees can return to their homes.

Joseph Schechla (HIC): The Tool Kit, within the legal sources, includes Humanitarian Law. However, in the Mediterranean region there are several cases of illegal occupation (Cyprus, Palestine, and the Sahara). In accordance to Article 49 of the Geneva Convention of 1949 Relative to the Treatment of Civilian Persons in Times of War, individual or mass forcible transfers and deportations are prohibited. Article 8 of the Rome Statute of the International Criminal Court of 1998 considers the gratuitous destruction of property and housing a crime (Article 8.2, section a.iv), as is the transfer of civil populations (Article 8.2, section b.viii), and other forms of premeditated harm against the population. These are examples of violations that are related to the right to adequate housing that are protected by humanitarian law, which therefore represents an additional source for the protection of the right to adequate housing.

Vasia (Greece): Is the fact that the UN has recognised or not a situation as an occupation important? Because in the case of Cyprus, it has not been recognised as such...

Joseph Schechla (HIC): It is important that the UN recognises it as such in order to apply Humanitarian Law and International Criminal Law. However, in general, there is a wide consensus on these occupations.

Housing and women subject to gender violence

A woman who was the victim of gender violence in Spain had to move to a different autonomous community in order to save her life, and in doing so, lost her right to adequate housing.

• Sources: The CEDAW, Article 11 of the ICESCR, the Spanish Constitution of 1978, the right to adequate housing in the regional and European sphere (rights contained in the Convention on the Protection of Human Rights), and in Spain the Law against violence against women (Ley integral contra violencia de género) (organic law 1/2004, of the 28th December).

• Principles: Non-discrimination.
• Guarantees: Violation of the ICESCR, of the CEDAW and the Spanish Constitution.
• Threats and obstacles: The inadequate application, globalisation and traditional practices such as chauvinism.
• Victims: Women, directly, the children directly or indirectly, and the families (because if the woman leaves, the violent husband will often turn to them).
• Impact: There is an impact on dignity in the first place; it also creates insecurity, depression (for the women and their children), and there is also an influence on a financial level as there is no upkeep on the part of the abuser.
• People responsible: Man, as principle perpetrator of the violence; the State and State authorities for not surveying these situations, nor offering any form of protection once these cases come to Light; the community regime, for being in contradiction with national and regional laws; and lastly, the financial institutions, because upon change of region their financial endorsements are broken.
• Action: Use different medias to make people aware of such cases; inform the UN of what is happening; mobilise the civil population, such as organisation, associations, etc.; facilitate a complete and integral education for the people who form part of this group.
• Alternative solution: In Manuela’s organisation in Huelva they pay the women’s rent and help them to find jobs so that they can pay it themselves later.
• Evaluation and follow-up: The number of affected women must be taken into account. As there is more violence against women in some regions of Spain, the public policies should be evaluated at State level, and their application controlled. Explications must be sought from the Women’s Institute and the Ministry of Equality and Social Well-being. Lastly, the complaints should be forwarded to the relevant Rapporteur.

Mª Inés (Spain): I’m from Colombia, and the truth is that there is a lot of chauvinism and gender violence in my country. In 1979 there was a campaign to educate about gender, and it resulted in a decrease in violence against women. I think that education is very important. We must force teachers to teach children to behave properly towards women.

Miloon Kothari (SR): Yes, this is important. You shouldn’t have to exhaust all other possibilities before turning to the Rapporteurs.

The outline of the mediterranean consultation
Manuela (Spain): I think that the responsibility falls on the government. Children’s education is important, but it is the Government that should do it. There is a law that states that equal education will be promoted, but this is ‘forgotten’ in the budget. Such things should not happen.

Melina (Croatia): The texts must also be analysed to see if they contain discriminations and to fight to change them.

Housing, women and legal and cultural discrimination

This is a Moroccan example of fifty women who live in a small village in the South of Morocco, and who have been working since the age of six cultivating saffron. The women and daughters are considered family property and are used to grow and harvest the saffron. All of the female side of the family is exploited in this way. The men sell the harvest and take the money. Girls do not go to school and women do not have any resources, and the land that they work on will never be theirs. It is the men who have the right to property, while women lack the financial capacity to enjoy the right to property and, as most are illiterate, they do not have any access to information on their rights. Further, living in an isolated village, the women are unable to express themselves by any means of communication. They are vulnerable, and have no security as they know that if they do not do as expected they will have nowhere to go.

Sources: Morocco has signed the ICESCR, the CEDAW, the Protocol to the African Charter on Human and Peoples’ Rights (2003) (relating to the rights of women in Africa), The Convention on the Rights of the child (1989), and the government has declared equality between men and women in the Rabat Declaration (1995). Lastly, the Moroccan Constitution (of 1996) establishes equality between men and women and all ministries have adopted this focus on gender.

Principles: Self-determination and disposal of material and cultural goods, etc. The villages are isolated, and what's more there is a lack of public will so that there is no harmonisation between Public International Law and reality. The State does not fulfil its international obligations, signing the agreements without applying them.

Obstacles: Above all, cultural, such as patriarchy.

Victims: Women, girls, mothers, grandmothers, girls to be born in the future...

Impact: The everyday loss of goods, with negative consequences for the family, village, region and country. When girls do not go to school their future income will be less. In addition to this, girls and boys want to leave the villages to marry elsewhere, which could lead to depopulation, and if they have no education and move from the village to the city they may have to resort to crime in order to earn a living.

The People responsible: The State, which has not committed itself to these areas, as there is a political desire to collectively punish them for having rebelled in the past. As a result, such areas have remained isolated, without roads, schools or hospitals, and the society has consequently retained patriarchal and traditional norms. The beneficiaries are the fundamentalists, who make political use of religion, causing women to be increasingly exploited.

Action: Carrying out campaigns to inform and raise awareness, more for women than campaigns carried out by the media; carry out programmes for the literacy and education of women; deeply investigate the culture in order to better raise awareness, in order to have a cultural focus that women can learn to take care of themselves.

Ourida (Algeria): It is important to make women aware of the difference between what Islam says, and what the Islamists say.

Joseph Schechla (HIC): There is a social cultural institution; the Berber song that speak of equality between men and women. Can you explain them? What happens to widows in relation to housing, land, etc?

Najat (Morocco): There are also investigations into the Berber culture of these recondite regions. Berber poetry states clearly that men and women are equal and this is sung in their songs, however, unfortunately this has been pushed aside by the increase in religious inte-
Migration, which has favoured the patriarchal system. We are trying to persuade people to examine their original culture so that they see that this patriarchal system is not their own, but has been imported by a third party. Before, women participated in debates in the public arena of the towns, and this is something that has been lost.

In relation to widows, the families try to marry them to the husband’s brother. If they do not want to and they have male children, they will be the heirs. If there are no male children, the property is distributed between the rest of the family, leaving the widow without any property of her own.

**Housing and immigrant women**

The example of a Kurdish woman from Iran was explained. She and her husband sought refuge in Iraq before the last war. They had refugee status but had to leave because of lack of security. They went to Turkey, where they had asylum seeker status. As soon as in Turkey, she separated from her husband because she was a victim of domestic abuse. As a Kurd she wasn’t safe in Turkey either.

- **Rights:** To housing, to security of tenure and to security of the person.
- **Sources:** The International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights and International Law. International Humanitarian Law could also be applied for the seeking of asylum. There is also the European Convention for the Protection of Human Rights and Fundamental Freedoms (1963), the Convention Relating to the Status of Refugees (1950) and the Convention on the Rights of the Child (1989), and as for national legislation, the Turkish Constitution states that everyone is equal in the eyes of the law.
- **Principles:** Non-discrimination (she suffers from multiple discrimination: ethnic, political, cultural, sexual, etc.).
- **Guarantees:** The Turkish Constitution, national laws and European laws.
- **Threats:** The bad application or lack of application of the law; limitations on the part of Turkey as to the number of refugees that it says it can accept; the armed conflict in relation to the Kurdish issue, which although not yet an open war, is a constant armed threat; globalisation; and lastly, the social, political and economical context of the region that mean that Turkey must adopt policies that are not good for the population.
  - **Victims:** Her and her son, who are homeless. The child does not receive an education, and suffers from psychological problems, and what’s more they cannot return to their country because her husband was a political activist and her life would be under threat. She is an asylum seeker, but the law is unclear as to how these people should be treated. Must they be deported? The State does not have any active education or health policies, etc. for these people, nor is there any legislation on the subject.
  - **Consequences:** She does not have any access to health, work, or education for her child. She cannot go to the authorities or to the embassy. There are some five thousand people in Turkey that are in this situation, and the impact on the community should also be taken into account.
  - **People Responsible:** The State of Turkey for not having decided its legal status nor having created policies to defend these rights. The United Nations and the Refugee Agency for not satisfying the requirements of their mandates and the International Community.
  - **Action:** She must be treated as a victim of violence or as a political asylum seeker. These are different categories. In this case in particular education should be provided, as well as aid, information, etc. Lawyers should be made aware, as should NGOs, social workers, representatives of the State, etc., focus being drawn to the subject from both levels. When more people are involved we can also work on a global scale, informing the Special Rapporteurs for displaced people, forming pressure groups in order to change the legislation on the status of these people, etc.

**Yakin Ertrük (SR):** In a case like this it is very important to assess the scale of the problem: the fact that it affects five thousand people. The Tool Kit can help to create a framework that documents the problem in order to then diffuse it in the media, to the UN, etc. The problem must be articulated. If the mechanisms can be used to present the problem as a totality, we will be better able to approach the authorities and pressurise them to change their policies.
During the Mediterranean Consultation, all participating women had the opportunity to report a specific case, individual or collective, of a violation of the right to adequate housing to the Special Rapporteur. The testimonies presented are transcribed in this section.

In presenting their testimonies, the participants attempted to apply the monitoring methodology learnt during the training. For this reason, at the end of each text the aspects of the right to housing which have not been fulfilled and the obligations which have not been respected in the presented case are highlighted, as well as the obstacles faced in gaining access to housing.

4.1

PANEL 1: Housing and women suffering from gender violence

4.1.1 Testimony of Manuela (Spain – Asociación de mujeres víctimas de violencia, Mirafías)

“My case has to do with gender violence. First of all, I’d like to say that it’s a situation I’ve been trying to remedy for many years.

It all began after 10 years of cohabitation, when I was in the hospital with one of my daughters due to delivery complications. While I was away from home, my husband sexually abused my daughter. When I came back home and found out what had happened, and faced with his denial of the accusations, I decided to take my daughter to a psychologist, who assured me that what she said was true. I then decided on separation. During this time my parents cared for my daughters. They thought it best for us not to separate, as I would be completely vulnerable and unsupported. I told my husband to leave, but he soon returned, asking that we get back together. As I was alone, with no material possibilities to support my daughters and home, I agreed to continue with him, although with no relations as a couple. When my husband returned home, my daughter’s reaction was one of total isolation, constantly cloistering herself away in her room. He began to become very violent. I had to support physical violence, and psychological, economic, moral and environmental damages for 10 years. When at last I proposed we separate he nearly killed me.

Without telling anyone, I began to collect information on my rights in the Institute for Protection of Andalusian Women. I then decided to leave my husband, which meant leaving my home, waiving my right to dignified housing, moving away from my abuser and protecting my life. The home we lived in was registered in my name. It was one of the homes that are adjudicated to women with low economic resources. I had to move into a shelter even though the home was mine, to protect my life and safety. I applied for admittance to the shelter at the same time I made the formal complaint.

My right to housing was protected in the shelter. Nonetheless, neither my privacy nor my safety were guaranteed, because during that time we had to change shelters three times, as my husband always managed to find us through information he got from our bank (he knew the places where I withdrew money).
After eight months of living in the shelter, the court handed down its decision. I was granted custody and use of the home on a rental basis. The judge granted me ten days in which to return home, although the criminal trial had not yet been held. Another problem was that in the civil trial, in which the ownership of property was debated, there was also a violation of my right to legitimate defence, as the shelter did not notify anyone that I was living there, and all the notices regarding the civil trial were sent to my former home. Therefore, I was unaware of these notices. When I returned to the courts after eight months to obtain information regarding the criminal trial, I was informed that the case had been closed. The fatal error was to first hold the civil and then the criminal trial. Therefore, I was forced to return to my former house, afraid because my husband clearly knew where I was, and if I breached the terms of the ruling I would lose the custody of my daughters.

I returned to my home, but he stayed in the car in front of it. I was therefore trapped in my own home. I went to the Institute of public works and requested a change of residence, which I was granted. I moved into the new home, which was in very bad condition, and for which I had to cover the renovation expenses. I then had to sell all my possessions and was forced to live in a home with conditions that were very inferior to the one I previously had.

The criminal trial was held. My daughters and I testified against their father. Nevertheless, after ten days, a ruling was handed down acquitting my husband, on the grounds that the witnesses did not match the profile of women suffering gender violence. He therefore had the right to see his youngest daughter during monitored visits.

In conclusion, despite the home being registered in my name, my rights to housing were violated. I had to cover all relocation and protection costs and expenses, in addition to the lack of personal protection, as I had to flee from my home hidden and at night due to fear. Furthermore, the State unemployment benefit was insufficient, as it was only valid a limited number of months. Finally, I began to receive it two months later.

It is very important for me to preserve my right to privacy. Therefore, if a denunciation of my case is made before the United Nations, I ask that a pseudonym be used, and that my place of residence not be disclosed.

In my case, as regards housing, the problem was not whose name it was in, but the impossibility of inhabiting it due to the gender violence perpetrated by my husband, and in a second phase, the poor habitability of the home assigned to me later on. Although there is a law against gender violence in Spain, women’s rights are not protected. The law is insufficient in resources and infrastructure. A thorough follow-up of the victims is necessary. A law cannot be passed and left as is. There must be consistency in measures to support women, with the compliance and follow-up established therein.

B. over-riding principles

i. Security and possession - security (physical) and privacy: “I could not decide whether to stay in his house or go elsewhere. I had to leave his home in a violent, forced way.”

ii. Non-retrogression - physical and economic affordability: “the problem was not whose name it was in, but the impossibility of inhabiting it due to the gender violence perpetrated by my husband, and in a second phase, the poor habitability of the home assigned to me later on (...the lack of personal protection, as I had to flee from my home hidden and at night due to fear. Furthermore, the State unemployment benefit was insufficient, as it was only valid a limited number of months. Finally, I began to receive it two months later.”

D. obstacles

i. Non-application of legal texts

ii. Insufficiency of legal protection: The law against gender violence considers women to be priority groups in access to housing, but it does not directly guarantee the right

iii. Slowness of the legal system

iv. Cultural obstacles

4.1.2 Testimony of Eleni (Greece - Therapy Centre for Dependent Individuals)

“I work in a rehabilitation centre in Athens, with a group of fieldworkers. We intervene to help drug addicts. I met a girl a week ago, and I’m going to tell you her story. It’s a case that has to do with multiple gender discriminations inflicted by her family and society.

Silvia was born a boy. When she was a young boy she realized that she did not identify with her body. Thus, she had to find
the means of expressing it, but she knew it was not an idea that her family or society would accept. When her family found out about her sexual orientation, she was raped and thrown out of the house. She was forced to leave without any safe place to go. At the age of 19 she arrived in Athens. She had to survive on the streets with temporary jobs, and was unable to make enough money to gain access to adequate housing. At 22 she began to work as a prostitute. With the money earned she had a sex change operation and was stigmatized. Silvia continued to work as a prostitute, having to withstand psychological and physical violations due to her work and new gender. At 28 she started taking drugs. Despite having worked all her life, Silvia has never had the means to afford dignified housing. She has always had to live in temporary shelters and on the street. She knows that seeking protection of her right to dignified housing through the courts is not the solution, as she knows she will be discriminated against due to her condition as a transsexual, her profession and drug addiction. Greece has no laws to protect transsexuals. There only exists the general principle of non-discrimination.

In Athens there are some organizations devoted to protection of the homeless, but their existence is generally unknown. Furthermore, even if they are known, there are many difficulties in contacting and accessing them. Additionally, there are not enough of them, considering the high numbers of homeless living in Athens. There are possibilities of receiving subsidies, but they are insufficient to pay for dignified housing. There is also a problem of the existence of a category of homeless formalized by the State, and to be recognized as one, a number of conditions and requirements must be met.

My fieldwork team and I are unable to do much. We carry out more of an informative duty. The support consists of referring them to other services that we have within the organization. But there are situations in which intervention is made difficult due to the high levels of violations and discrimination suffered.

B. over-riding principles

i. Non-discrimination - economic affordability: «Despite having worked all her life, Silvia has never had the means to afford dignified housing. She knows that seeking protection of her right to dignified housing through the courts is not the solution, as she knows she will be discriminated against due to her condition as a transsexual, her profession and drug addiction.»

D. obstacles

i. Non-application of legal texts

ii. Discrimination, their condition makes access to a dignified home more difficult.

iii. The government has no plans to guarantee the right to housing. There are no effective measures or actions taken by authorities to protect the homeless.

iv. The absence of information for people regarding the protection institutions, and these institutions’ insufficient numbers.

4.1.3 Testimony of Gorana (Croatia – Be active Be emancipated)

«In Croatia, despite the existence of legislation that acknowledges the right, there are shortcomings in terms of its applicability and effectiveness, as the real situation is quite different from what is stipulated by law.

The case I’m going to present is that of a young married woman with two daughters. She worked in domestic service. Her husband became increasingly aggressive, with insults, episodes of isolation, violence, etc. One day, following an argument, he threw her out of their flat. The neighbours called the police, who intervened at that time. She asked the police for social assistance, as she was afraid to return home and had nowhere else to go. The only solution provided was for her daughters to go to a shelter, and for her to seek temporary housing from other people, in this case, her friends. She was forced to leave home to protect her life, to separate from her children because there were no alternative housing resources, and to seek out the charity of third parties.

During the criminal trial, the judge determined that the domestic violence she had suffered was a misdemeanour, and her husband was fined. The consequence of judicially classifying the abuse as a misdemeanour is the inapplicability of the legislation that provides for restraining orders in situations of aggression and the obligation for the male to leave the home. Her husband kept the house, and her daughters continued living in a shelter, and thus, separated from their mother. The civil trial for the divorce took more than a year, and the property settlement took over five years. Throughout this time, she was forced to seek out housing which cost 60% of her salary. In the meantime, her husband lived in the home, without making any of the alimony payments required by law."
There are good laws in Croatia. There are also procedures, principles of gender equality and non-discrimination, and institutions meant to protect human rights such as the Ombudsman. But there are also major limitations to rights, such as judges’ mentalities and non-application of the laws. The limitations for the application of laws are mainly the training and outlook of judges and the lack of information among victims, who are unaware of the protective measures and therefore can not request them.

There are not enough shelters. Croatia has a population of over 1,300,000, but only one shelter, run by an NGO and none run by the government. Therefore, the shelters do not cover the needs. Our organization recently carried out a proposal to build a shelter. We were negotiating for support from the government, which was not given in the end. We then secured financing from the European Commission, but the aid received was insufficient for the size of the problem. When a person seeks shelter from government institutions, they respond that there are not enough resources to offer it.

**B. over-riding principles**

i. Security and possession - security (physical) and privacy: «Ella se obligada a marchar de casa para proteger su vida, a separarse de sus hijos porque no hay un medio alternativo de vivienda y a buscar apoyo en la caridad de terceros.»

ii. Non-retrogression - physical and economic affordability: «Throughout this time, she was forced to seek out housing which cost 60% of her salary. In the meantime, her husband lived in the home, without making any of the alimony payments required by law.»

### 4.1.4 Testimony of Najat (Morocco – Fudation YITTO pour l’hébergement et la rehabilitation des femmes victimes de violence)

«I have chosen violence against women as the subject of my testimony, specifically as it affects a group of women living in marginalized districts of Casablanca. The organization that YITTO (Association pour l’Hébergement et la Rehabilitation des Femmes Victimes de Violence) has carried out an interview campaign with the women of these neighbourhoods. They are shantytowns without proper construction or any infrastructure, dominated by religious extremism.

The interview campaign has brought to light a worrisome situation of collective violence against women. They are obliged to be accompanied by men, to dress as the religious leaders dictate, and to be home before 7 pm. Therefore the women who worked at night had to quit their jobs. They live crowded in shanties built with poor materials, therefore making for subhuman conditions. These are very marginalized neighbourhoods and thus the women are constantly at risk of being raped.

In the interviews, over one hundred women have reported being victims of violence, in and outside their homes. As to why they had not yet reported this situation and kept it quiet, they answered that no one had ever asked them how they were and that the police ignore their complaints. When we asked them why they had not protested against the situation imposed upon them by the men, they answered that they were unable to because when the fundamentalists hear about the violence, the women in the neighbourhood suffer even more of it. The only way they have to protect themselves is to leave their homes as little as possible. But this protection is difficult in practice, especially because there is no running water in the houses and they have to go out looking for it several hours a day.

I must add that we would have liked to have delved further in the field research but there was very little time. The interview campaign was performed in one of the neighbourhoods in question, but it is not the only one with this situation. There are many marginalized neighbourhoods in Casablanca in which there is no drinking water, much less electricity. Therefore, people residing in these areas can not live a dignified life. Above all, it is the lack of running water in homes and the obligation to go out looking for it that affects women the most. This is because the transportation of water is a hard physical task for them, and the fundamentalists who come across them on the road cut them off and harass them because they are not supposed to leave home alone, the idea being that if they go out for water they ignore their household chores.

The lack of water in the homes is also a factor of frustration and depression for the women because it is proof of the subhuman conditions in which they live, considering that in nearby neighbourhoods water is available. Another factor of frustration is the lack of private spaces in the homes, as there is generally one room for 8-9 people without a lavatory or kitchen. Therefore, the women have no private space to themselves or to share with their husbands. Added to this is the feeling of vulnerability, given that the State ignores the needs of this population group, and especially these women. This situation directly affects the education of their sons and daughters. The women convey these feelings of frustration, generating a chain of frustrations, and the future generation is thus condemned to live with them.”
Real estate speculation began in Morocco when the Government took a greater interest in creating favourable conditions for businessmen than in protecting its own population. There are many examples in Morocco of social housing estates which, built haphazardly with little regard for safety standards, have collapsed after a few years of use, causing many deaths. The main cause of this situation is corruption, from the low-level authorities, local politicians, to those of the highest levels. This is the reason why it is so difficult to delimit and control the problem.

In the past five years, measures have been adopted to deal with this problem, but the application and follow-up of the rules ratified is still lacking.

Our work is focused on educating citizens because we can not expect the State to do so. If we sit by and wait we will never emerge from these situations. Therefore, we involve citizens in the monitoring and application of the laws, and the promotion of rights such as housing, health care, education and privacy.

B. over-riding principles

i. Non-discrimination and self-determination - Public goods and services, the environment and habitability: they live in crowded, subhuman conditions, ...the materials with which the homes are built. Another factor of frustration is the lack of private spaces in the homes, as there is generally one room for 8-9 people without a lavatory or kitchen. Therefore, the women have no private space to themselves or to share with their husbands. They are truly insufficient. (...) They have no water or electricity. They can not live in a dignified way. They can not have access to these resources, which are absolutely basic. They are obliged to fetch water from elsewhere. The solution would be to install community fountains for them to fetch water. Another factor of frustration is the lack of private spaces in the homes, as there is generally one room for 8-9 people without a lavatory or kitchen. Therefore, the women have no private space to themselves or to share with their husbands.

ii. Non-discrimination and self-determination - security (physical) and privacy: they were unable to protest because when the fundamentalists hear about the violence, the women in the neighbourhood suffer even more of it. The only way they have to protect themselves is to leave their homes as little as possible.

iii. Economic affordability: In Morocco, entrepreneurs were encouraged to speculate with housing. There are many examples in Morocco of social housing estates which, built haphazardly with little regard for safety standards, have collapsed after a few years of use, causing many deaths.

D. obstacles

i. The non-application of texts

ii. The poverty and exclusion that foster religious extremism

iii. Speculation, Corruption and its impunity
4.2

PANEL 2: Housing and immigrant women

4.2.1 Testimony of Claude (France – Droit au Logement, DAL)

«I will talk about the immigrant women who live in polygamous families. Miriam is a woman of Malian origin living in France, who has a residency permit in the framework of her family’s reunification. The problem arose when this woman wanted to “de-cohabitate” or leave her husband.

Due to new French polygamy legislation, this woman was forced to remain with “her” family in a run-down building in the underprivileged suburbs.

Miriam lived out the cohabitation as a difficult situation, marked by major promiscuity. She does not get along with her husband’s other wives, especially the first. She has also had to face her children’s problems (it could be said that hers is an unbearable situation).

Miriam’s situation, and that of all women belonging to polygamous families, has worsened since 1993, when a decree to eradicate polygamous families came into force. It was meant to limit family reunification to just one woman.

Therefore, only one woman could be registered on the husband’s residency permit. For some time, the law was not too inflexible with these families. But the government cracked down after 2000.

While under this law the first wife obtains residency status thanks to her husband, Miriam may not be able to renew her residency permit. Without it, she will be unable to get a job. Without work, she will be unable to leave her husband or find adequate housing.

The permits initially granted to the women in the family reunification program were for 10 years. Nevertheless, with the new law and the fight against polygamy, only one year of extendable residence is allowed to them. The renewal is conditioned to the applicant wanting to abandon polygamy. In any case, it also depends on the applicant’s economic resources. The law refers to the husbands obtaining regularization if they abandon polygamy, not their wives.

On another note, if Miriam loses her residency status, she will have to be repatriated or live illegally. She will have few possibilities of leaving her husband and earning a living separated from him if her economic independence is not possible without him.

The French legislation is to blame. Immigrants’ wives do not have autonomous permits. They are obliged to remain registered under those of their husbands. The legislation is increasingly strict. The Ministry is ardently fighting immigration. All of France’s ills are blamed on immigrants: ground is being lost in immigrants’ rights.

Miriam currently lives with 16 other people in a 90-square meter apartment, in a dilapidated building in the suburbs of a major city.

The polygamous families arrived in France in the 1980’s with immigrants’ reunifications. They are oftentimes looked down on by civil society. The government has a growing body of restrictive policies for the entry of immigrants. That is also why polygamy was prohibited. The permits are for increasingly shorter terms and little importance is given to women.

Miriam has tried to fight against her isolation by participating in neighbourhood movements, and coming to our association. Still, we know that this situation is nearly impossible to solve at the legal level:

This woman is victim of a triple discrimination:
• discrimination for being an immigrant
• discrimination for being an immigrant’s wife (she does not have her own residency card)
• discrimination among the other wives (as she is the husband’s second wife)

B. over-riding principles

i. Habitability and no discrimination: «Miriam currently lives with 16 other people in a 90-square meter apartment, in a dilapidated building in the suburbs of a major city.»

ii. Security of tenure: «The French legislation is to blame. Immigrants’ wives do not have autonomous permits. They are obliged to remain registered under those of their husbands.»

iii. Non-retrogression: «Due to new French polygamy legislation, this woman was forced to remain with “her” family in a run-down building in the underprivileged suburbs.»
D. obstacles

i. The current French legislation

ii. The absence of immigration policies that properly ensure the rights of immigrants

iii. The different types of discrimination they suffer, that impedes access to dignified housing.

D. obstacles

i. Occupational and economic instability

ii. The lack of aid for cases like hers.

iii. The current French legislation

4.2.2 Testimony of Najat (Tunisia – Association Tunisienne des Femmes Démocrates, ATDF)

“This is the case of a Tunisian woman with a work permit in France, who left her husband and children to go to France. The woman left them thinking that she could easily enter family reunification, but she was denied it due to insufficient resources.

The criteria for obtaining family reunification are: a salary to support the family (she will be the one who supports them all) and adequate housing with at least one room for the children (she has a small studio apartment which is not suitable for four people). She has a salary, 40% of which is to cover the rent. She could not achieve the economic stability she was seeking when she left her country, nor family stability, despite having a regularized situation. She was denied this right because she was unable to get a better job due to a lack of training.

Furthermore, her home did not meet the suitability criteria. In this case, it is shown how housing goes from being a right to being a requirement or demand in reunification scenarios. The state neglects the provision of this right.

She is unemployed due to discrimination, occupational instability and a lack of education. This situation is affecting her husband and children, and threatens their relationship as a couple and family.”

4.2.3 Testimony of María Inés (España – Asociación pro-Derechos Humanos de Andalucía)

“I will talk about a sub-Saharan immigrant woman, a single mother with two children under her care, who suffered violations of her woman’s rights.

She fled the conflict that her country was immersed in. She eventually arrived in Spain expecting to find paradise. After a great deal of fleeing and being pursued, she managed to work illegally. She received very low wages despite working many more hours than normal.

In 1999, after a regularization period in which (work and residency) papers were offered, she landed a bogus contract by which she was to work for no pay, only in exchange for employer contributions to the Social Security system.

She worked for one year at the risk of being reported. Under the former law, when she renewed her residency permit, she would be given another valid for two years; When she obtained this permit she was exploited by her own compatriots as a street peddler. Her social security was allegedly paid with phony contracts.

Her dream was to get her children out of her war-torn country. At that time, the most she could do was to speak to them by telephone, as she did not have resources for more. She was living in a flat provided by her own exploiters, in inadequate conditions.

Today, five years later, she has a permanent permit that allows her to work in any area. But she still can not fulfill her goal.

She suffers multiple discriminations for being a single mother,
a female immigrant, illiterate and from an impoverished country in conflict. She has not found the refuge she sought. She came looking for a dignified life, but found all doors closed. Despite having a permanent residency card to work, it has not solved the problem she came to resolve.

She can not obtain adequate housing. The law requires her to have it, but she cannot meet the expense. She is forced to live without her children. She lives with a group of sub-Saharan. There are 15 people in a four by five meter room. They sleep on mattresses on the floor, and only go there to sleep. In fact, she is registered at a different address.

At our association, we carry out denunciation, education and regularization campaigns for immigrants, whether or not they have their papers.

We demand that the state government improve the situation of immigrants, and we are struggling to effect the reunification of this woman’s family. As for evaluation and follow-up, it has been proposed to form partnerships with the Saharan villages to follow up on all these persons.

Our association participates in the world migration forum, and we attempt to track the subsidies earmarked for immigrants in Spain. We still do not know what the money from the European Union is devoted to. The State seeks to strengthen its fight against the entry of immigrants instead of trying to provide good conditions for them. All of these denunciations are bringing about results, albeit slowly.

B. over-riding principles

i. Non-discrimination - Habitability: «She lives with a group of sub-Saharan. There are 15 people in a four by five meter room. They sleep on mattresses on the floor, and only go there to sleep.».

ii. Non-discrimination – security (physical): «Sufre discriminación múltiple por ser madre soltera, mujer inmigrante, por ser analfabeta y por proceder de un país empobrecido y en conflicto».

iii. Non-discrimination – economic affordability: «She can not obtain appropriate housing. The law requires her to have it, but she cannot meet the expense.»

D. obstacles

i. Economic instability, occupation and personal exploitation and abuse.

ii. The different types of discrimination suffered that impede access to adequate housing and dignified living conditions.

iii. The absence of immigration policies that properly ensure the rights of immigrants and that make for real assistance in the improvement of their situation.
4.3

PANEL 3: Housing, women, and privatisation of services

4.3.1 Testimony of Melina (Croatia – Be active Be emancipated)

«My case has to do with the transition from socialism to capitalism. When Yugoslavia was socialist, the State socialized many apartments and gave them to their tenants at a symbolic price. Many of these apartments were state property, although some were still private property. A contract was formalized for these apartments in order for the people to legally reside in them. With the arrival of capitalism, private owners wanted their property back. Therefore, everyone living in the State-owned apartments was forcefully evicted. Later, a law was ratified that meant to regulate this situation, but in practice, it only made it worse.

There are many laws meant to regulate this situation. There is one from 1974 and 1985 which granted minimal rights to people living in these apartments. After the war, everything changed. Some tenants were able to purchase their homes, but in other cases the former owners did not want to sell the apartments. Therefore these people were not entitled to purchase the place that had been their home for many years. The law was changed in 1998. The situation worsened because the former law stipulated what happened to the people who had to leave their apartments. Alternative housing was available. But due to this alternative housing provision, all such protection was done away with in the new law. In conclusion, we have a legal vacuum regarding housing and the former owners want their apartments back.

We are living a situation marked by many forceful evictions, even over the most vulnerable population groups, such as children and the elderly. To handle these situations, the State had planned a support subsidy and a purchasesale control system, but this mechanism has not been used. Therefore, there are many victims, both lessors and lessees, and the State is liable for not having covered this legal vacuum. There have been many laws, but none have been effective.

As for gender, women are more vulnerable, due to their condition as women. Within the women’s community the most vulnerable are the widows, because their pension is very low, as are the salaries.

The republic promised these homes to soldiers and police officers. Therefore, they acted violently and intimidatingly toward the people living there, especially women, as they are a more vulnerable population group vis-à-vis such aggression. On another note, given the insecurity generated by this situation, many of the women residing there who became pregnant faced the dilemma of whether to have an abortion, afraid of falling victim to eviction; in addition to being evicted they would face an uncertain future.

Since 1998, no alternative housing has been provided. No plans exist for these people’s housing. They are evicted with all their belongings. The police enter, throw out all their belongings and then throw them out of their homes. There are many associations that work for the tenants. They have filed many requests and taken actions, but up to now, all their efforts have been in vain. We are at a dead end. Over 7000 families are involved in this situation. People are evicted every day.

One woman had her case tried in court. She won the trial, but the decision was not applied. The European Court of Human Rights has also handed down an opinion, but the rulings have not been enforced. The evictions are carried out in the apartments that were private property, not the public ones. The tenants were allowed to buy these at low prices.

Before the eviction there is a preliminary hearing. The legal owners have the right to reclaim their apartment, but the tenants are offered no protection. The rulings are always in the owners’ favour, as priority is given to private property, and because the owner has the right to his apartment.»

B. over-riding principles

i. Self-determination – security of tenure and protection against eviction and economic affordability: «We are living a situation marked by many forceful evictions, even over the most vulnerable population groups, such as children and the elderly.»

ii. Non-retrogression - security of tenure and protection against eviction: «The law was changed in 1998. The situation worsened because the former law stipulated what happened to the people who had to leave their apartments. Alternative housing was available. But due to this alternative housing provision, all such protection was done away with in the new law.»

iii. Non-Discrimination - security of tenure and protection against eviction: «With the arrival of capitalism, private owners wanted their property back. There-
fore, everyone living in the State-owned apartments was forcefully evicted.»

D. obstacles

i. The non-application of texts

ii. There are no laws that resolve the problem

iii. The housing privatization policies

4.3.2 Testimony of Ourida (Algeria – Association Tharwa N’Fadhma N’soumer)

«I will present the case of a woman named Aicha, over 45, a widow and mother of four. When I met her she was in a very unstable situation.

She was living with her husband and children in a village. Her husband was working “off the books” (without filing tax returns, etc.). When her husband died she found herself penniless, and had to move in with her parents. Shortly afterwards her daughter fell ill. She took her to the hospital, and the doctors recommended she take her to a specialized school. Facing this situation, her parents recommended she abandon her daughter. She had to leave her parents’ home. She sought out the proper contacts and managed to register her daughter in a special school. She soon found work and made enough money for her and her children. She rented a dignified home.

After some years, with the transition to liberalism, the owner decided to sell the flat. She could not buy it, as she lacked the money. She signed onto a list with the local council in order for them to assign her adequate housing. Before the local council had assigned her a home, her landlord asked her to leave the premises. As she had not signed a lease when she began living in the home, she found herself powerless to take legal action. There are laws concerning leases, but in practice the owners reach an agreement with the tenants, and do not report the real amounts, as this way they pay less in taxes. They report much lower sums before the notary, and these laws cannot be applied because everything is done under the table.

They evicted her from the home shortly thereafter. She found herself living in a basement with her children. The government housing she requested was never given to her despite meeting the criteria for one to be adjudicated. The main reasons why she has not been assigned subsidized housing have to do with corruption within the municipal system and discrimination against women. The local government places higher priority on men. When Aicha went to claim her home from the local council, she was told that the subsidized housing was assigned to men because they were the heads of the households.

There are many women in this same situation. They are vulnerable because they do not know their rights. They can be easily abused and furthermore they are victims of discrimination. Protests are held to claim women’s rights, but there still aren’t enough.

The municipalities are the organizations that manage subsidized housing. Therefore, all it takes is the corruption of one municipal employee to benefit from it. Furthermore, the budget for construction of social housing is insufficient. On another note, the demand for these homes is very high in Algeria, because salaries have not kept pace with inflation. This is all happening despite Algeria’s signing the United Nations Convention Against Corruption. Nonetheless, it has yet to ratify the African convention against corruption, which is more binding.»

B. over-riding principles

i. Autonomy – security of tenure and protection against eviction and economic affordability: «She soon found work and made enough money for her and her children. She rented a dignified home. After some years, with the transition to liberalism, the owner decided to sell the flat. She could not buy it, as she lacked the money (...) As she had not signed a lease when she began living in the home, she found herself powerless to take legal action.»

ii. No discrimination: «The main reasons why she has not been assigned subsidized housing have to do with corruption within the municipal system and discrimination against women. The local government places higher priority on men.»

D. obstacles

i. Discrimination against women

ii. Victims are not informed on their rights
4.3.3 Testimony of Lucelena (Portugal – Comissão des Moradores de Azinhaga Dos Biziouros)

“We are here to report on a serious problem existing in the suburbs of Lisbon. Forceful evictions have taken place through the demolition of the homes of women who live in “javela” shanties. This situation is the consequence of a special government program to eradicate shantytowns. In 1993 a census was taken of shantytown residents. People began to be evicted, and were given a place to stay. However, some people are still waiting to be resettled. Others not covered in the census are now being evicted from their homes. From 1993 to the present, other persons have come to live in this neighbourhood. Most of them are immigrants, and they suffer major discrimination problems. They have no resources to afford adequate housing, and have no other alternative than to live in shantytowns. With these demolitions, the Portuguese government is violating the right to housing and security of tenure.

Bank loans for the purchase of adequate housing call for certain requirements that would be hard for those living in shantytowns to meet, such as a guarantor to back the loan, or a fixed work contract.

We citizens have organized ourselves into committees, and have tried to negotiate with the authorities to come upon alternatives. We have organized demonstrations and decried the situation in the media. The government seeks justification by claiming it is the municipalities’ responsibility, and vice versa. The residents’ committees have gone to courts to block the eviction orders, and the courts have temporarily suspended the demolitions. A platform was created, and the right to housing defended, through a civil society movement created with the dissemination of the problem in the news media.

The price of rent was “frozen” in Portugal for over 70 years. Therefore, the rental market is non-existent, and the few rentals that exist are exorbitantly priced. A law on rents was approved in February 2006. It called for the updating of all the rents that had been frozen, and many will be forced to leave their homes, unable to meet such high prices. This is the only action or measure that the government has taken to manage this situation.

We do not know the number of neighbourhoods in which the Housing Plan is being enacted. We are now working with five neighbourhoods, with some 1,000 people, but there are many other cases. In addition to the information not being disclosed due to its private nature, even when it is formally requested, it is being held by the National Government Institute, which is the organization that oversees the program. There are many irregularities in the municipalities’ application of the program. When we have asked them for control measures, their response was that they have the responsibility, but not the capacity. They asked the associations to do this task. The citizens from African countries do not have access to this information.

The platform’s work has been ongoing for six months. This is a new right in Portugal. Following the 1974 revolution, the intellectual middle classes drafted a comprehensive constitution. It features an article on the right to housing, but the laws have not implemented it.

B. over-riding principles

i. Security of tenure and protection against eviction and economic affordability: other persons have come to live in this neighbourhood. Most of them are immigrants, and they suffer major discrimination problems. They have no resources to afford adequate housing, and have no other alternative than to live in shantytowns. With these demolitions, the Portuguese government is violating the right to housing and security of tenure. “(…) Bank loans for the purchase of appropriate housing call for certain requirements that would be hard for those living in shantytowns to meet, such as a guarantor to back the loan, or a fixed work contract.” (...) “This situation is the consequence of a special government program to eradicate shantytowns. In 1993 a census was taken of shantytown residents. People began to be evicted, and were given a place to stay. However, some people are still waiting to be resettled. Others not covered in the census are now being evicted from their homes.”

D. obstacles

i. The non-application of the Constitution and international agreements

ii. Arbitrary evictions

iii. Multiple discrimination
4.4  

PANEL 4: Vivienda, mujeres y discriminación de minorías nacionales

4.4.1 Testimony of Aminetou (Western Sahara – Unión Nacional de Mujeres Saharauis)

«My case is the case of all Saharawi women. We don’t suffer gender violence, but we have a serious problem due to the direct confrontation between Morocco and the Saharawis. Many women that have resisted the occupation have been raped, “disappeared” or kidnapped. Many of them, unable to withstand the subhuman conditions, have fallen victim to disease. Those who have managed to free themselves have emerged with physical and psychological scars. They bear the worst part. The politics of terror and pressure is the price they have paid for limiting themselves to a passive role. In any conflict, women have been victims of detentions. Prison cells are full of Saharawis who are there for claiming the right to self-determination. The UN has been asked to hold a referendum. Those responsible for this situation are the Moroccan and Spanish governments (we were given up on November 14, 1975). We had to flee, and half our numbers were shot.

The Saharawis that could leave Morocco are in refugee camps in Tinduf. The mere term “refugee camps” should be sufficient to give an idea of the housing conditions: Adobe houses, hard work, carrying water over many kilometres, making bread, etc. It is a barren land. We are the first ones to be able to survive in these conditions. We have spent 30 years in the refugee camps, and only a handful of families are united, since the population was dispersed due to the Moroccan invasion. Algeria took us in for the establishment of the camps. We have good relations with them.

Dialog must be sought between Morocco and the Saharawi community. This is also a message from the women. We want to express our solidarity with all women of the world and remind everyone that women are the main victims of this conflict, directly receiving its consequences.

In the case of the Saharawi people, we could say that the displacement constitutes in itself a number of violations. But when we face this obstacle in access to land and housing, the principle of self-determination has to do with access to natural resources and land. The people have rights. It is a case of rights violations on a broad scale. In a way, this dynamic is a violation of the rights to housing and land, and it is very serious.

We are proud to say that Saharawi women are not victims of abuse. There may be exceptions, but the general rule is non-violence. A man who batters a woman is looked down on. I would like to say something about the situation of the Saharawi people. It is hard to imagine a 30-year occupation in the desert. These people are still unable to return to their territory, as is their right, because Spain, despite knowing this situation, has not fulfilled its role in backing this cause. Perhaps it could help find solutions in this way. Finding a specific solution would be most interesting.»

B. over-riding principles

i. Habitability, Self-determination: «The mere term “refugee camps” should be sufficient to give an idea of the conditions. Adobe houses, hard work, carrying water over many kilometres, making bread, etc. It means living in a barren land. We are the first ones to be able to survive in these conditions." (...) “Many women that have resisted the occupation have been raped, “disappeared” or kidnapped. Many of them, unable to withstand the subhuman conditions, have fallen victim to disease; Those who have managed to free themselves have emerged with physical and psychological scars. There are women who have been run down and raped by the army.»

ii. Return and restitution, security (physical) and privacy: «It is hard to imagine a 30-year occupation in the desert. These people are unable to return to their territory, as is their right.»

D. obstacles

i. Lack of protection of refugee status
ii. Reprisals from the Moroccan government
iii. Lack of international political measure for the protection of housing and human rights

4.4.2 Testimony of Rojbin (Turkey – Van Women Association)

«The area where I live is full of helicopter noise and military uniforms, every day, all the time. I’m a human rights activist. I was the first female attorney and I have been practicing law since
1996. I have been abused by the military, because I deal with human rights issues in my work. In 2005 I founded a group that works for landmine victims and the sensitization of civil society. In Turkish, the name of my village is now Jakari. It is on the Iran-Iraq border.

I’m going to tell you the story of a 39 year-old woman with seven children, with an official marriage certificate, who lives near the Iraqi border. Her story began in 1994 with the clash between the Kurds and Turkish forces. Eleven people from her family died. At that time her village was razed by Turkish troops. The civilians were caught in the crossfire, and were forcefully evicted. This woman and the villagers went to a neighbouring town, where they remained until 1994. When that town was attacked, they had to flee again. They then reached another village. Unfortunately, the government did not grant them entry. Then they negotiated and reached an agreement by which those who wanted to stay would have to be paramilitary guards. Those who didn’t would have to go elsewhere. This girl and 360 other families stayed in the place indicated by the government. They spent the entire winter in tents and had trouble with a neighbouring village.

In mid-July 1995, housing was sought for them in a very unsafe area susceptible to landslides. The government instructed them to go there. When I met her, she asked me to go to her home and check on her husband, as he had lost a leg in a landmine explosion. After I reviewed his case, I filed petitions with the local governor. He threw them out the window and said, “Look, shut up!” without giving any sort of solution. Finally, I wrote the president of Turkey. An engineer was sent, and he confirmed that a new site for the homes had to be sought. They had to live in this situation until 2003, when they were resettled to another province. They call it a camp. The houses are the same, very small. They have mosquito problems because the ground has many cavities, and water problems because the water is not potable and they have to walk to gather it from a private property.

In the case that I’ve presented they have no security of tenure, public services, drinking water, electricity, heating, habitability, safety, intimacy or privacy.

The right to housing is a new right for us. If you tell the people I work with that they have this right, they do not believe it because they are not even guaranteed the right to life.

The law is not the only tool, and in many cases it is not effective. We have to have other strategies, and one of them is information. The real situations are a practical and legal challenge to us. That is why we must seek new strategies and use all the resources available to us.

B. over-riding principles

i. Security of tenure - Self-determination and Non-retrogression: «Her story began in 1994 with the clash between the Kurds and Turkish forces. Eleven people from her family died. At that time her village was razed by Turkish troops. The civilians were caught in the crossfire, and were forcefully evicted. This woman and the villagers went to a neighbouring town, where they remained until 1994. When that town was attacked, they had to flee again. They then reached another village. Unfortunately, the government did not grant them entry. Then they negotiated and reached an agreement by which those who wanted to stay would have to be paramilitary guards. Those who didn’t would have to go elsewhere. This girl and 360 other families stayed in the place indicated by the government. They spent the entire winter in tents and had trouble with a neighbouring village.

They had to live in this situation until 2003, when they were resettled to another province. They call it a camp. The houses are the same, very small. They have mosquito problems because the ground has many cavities, and water problems because the water is not potable and they have to walk to gather it from a private property.»

ii. Habitability and location: «In mid-July 1995, housing was sought for them in a very unsafe area susceptible to landslides. The government instructed them to go there.»

iii. Non-discrimination and gender equality: «(It’s a) matter of protecting honour; women can not socialize. There is another dilemma, because they become Kurdish targets. They are always in danger, and the men do not allow them to be with others. The Guard Corps rape them at will. Discrimination. That is why (the men) do not let the women out. The women live in a prison. They do not go to school. They can not accept any official assistance because they do not know Turkish.»

D. obstacles

i. Vulneracion de la legalidad constitucional e internacional

ii. There is clear discrimination against women

iii. The Kurdish-Turkish conflict
PANEL 5: Housing and impoverished women

4.5.1 Testimony of Simona (Italy – Associazione Diritto alla Casa, Action)

«First of all, I want to dispel a myth. I’m from Italy, a European country where it is said that there is no racial discrimination or discrimination between men and women. I would like my remarks to be useful in doing away with that falsehood.

In Italy, globalization began in the 1990’s, but as a whisper, without anyone realizing it. In 2006, we are facing a process that is already complete, that can not be changed. All that is left are certain forms of resistance.

The housing situation in Italy is especially complex. Our Constitution contains no article specifically recognizing the right to housing, although it does recognize private property and the social function it must fulfill for those who do not have a home.

In 1998, there was a change in rent legislation. It had previously been arranged to be paid depending on one’s income, but two modifications were introduced: socially subsidized homes were done away with, and free market rent was introduced. This authorized the landlord to set the rent at the price he deemed fit, with no limit whatsoever. There have always been evictions, but now it is worse because without subsidized housing, those evicted have nowhere to go. There is a lack of possibilities to earn an income that facilitates one’s access to a home. Some 3,500 evictions are planned between 2005 and 2006, affecting young people, the elderly, the disabled, etc. Evictions are always done through a legal process, but it is useless to appeal, because with the free market modification of 1998, the owner does not have to justify evicting the tenant after a certain number of years.

There are many cases of long-time residents who have lost their homes, along with the rights this implies (schools, health care, etc.). There is no gender discrimination in the evictions, but it is true that the majority of people in this situation are women. For example, if a family unit made up of a woman and her children are evicted, the immediate response of the Social Services Department is not to give them a home where they can live temporarily together, but to send the children to foster families. There have been cases of women who have gone to the social services to inform them that they had been evicted and that they wanted their children to go to school, and lost custody of their children due to not being able to support them. Pregnant women face difficulties in getting landlords to rent homes to them, so they try to hide their pregnancy.

There is a fictitious extension of six months for disabled persons. There must be a doctor who certifies that the person can be moved, and who must be present during the eviction.

The numbers of homeless have increased. In cases like this, solidarity among neighbours is very important, as are demonstrations. We always try to create solidarity networks. Through such demonstrations, they managed to achieve a “winter truce” in France, according to which families can not be evicted in wintertime.

What is occurring is that the State can not guarantee certain rights, and normal families with salaries of 1,000 euros see themselves becoming poor when they have to pay rents of 1,500 euros. Facing this situation, the State has not come up with any solutions, and we have begun occupations (squatting).

At my organization, we have been analyzing the housing problem, learning the law and observing how it worked. Our service offices have been set up in various neighbourhoods. We proposed a debate on housing rights. This was approved by the local council, but has yet to be carried out. Our idea is to work from inside the institutions to change them, and on the outside, with the people, to mobilize and support them. This all must be done through forms of resistance, never through the law. The State represses and criminalizes associations and trade unions.

We are conducting eight occupations in Rome with Italians and immigrants. In one case, the eviction was resisted, and the local council ended up paying the rent for premises where a significant number of people were lodged.

We have created a wide-ranging common platform, including associations we have no relations with (such as the Tenants’ Union). We were able to portray the government in a negative light in the media because they refused to meet with us. Legal ly, however, nothing has changed.

Last year, the forced eviction task force visited Italy (coordinated by UN-HABITAT). They published a report after their visit. Now this report must be taken to petition the government in order to find out the results of the task force’s findings and recommendations. These are strategies to be considered. But a solution has not been found, and evictions are still on the rise. Of them, 70% are due to the tenant being unable to pay the rent.
At the same time, the occupations and legal eviction filings are also increasing.

We want to ask the UN to lend us a hand. Key articles of international treaties and the Italian Constitution are being violated. We want to restrict an agreement to block further evictions, abolish the free market law (or at least establish a rent cap) and equate the value of the euro to salaries because we can take no more. We’re poor.

B. over-riding principles

i. Security of tenure, protection against eviction - Non-retrogression: “Some 3,500 evictions are planned, affecting young people, the elderly, the disabled, etc.” (...) “In 1998, there was a change in rent legislation. It had previously been arranged to be paid depending on one’s income, but two modifications were introduced: socially subsidized homes were done away with, and free market rent was introduced. This authorized the landlord to set the rent at the price he deemed fit, with no limit whatsoever. There have always been evictions, but now it is worse because without subsidized housing, those evicted have nowhere to go.”

ii. Gender equality and non-discrimination – economic affordability: “Pregnant women face difficulties in getting landlords to rent homes to them, so they try to hide their pregnancy.”

D. obstacles

i. The privatization processes.

ii. No acknowledgement of the right to housing in constitutional texts.

iii. The toughening of housing-related legislation.

iv. The absence of public policies set to support the situation of the groups that suffer the greatest difficulties when it comes to obtaining adequate, dignified housing.

4.5.2 Testimony of Vasia (Greece – Educational and social act)

“I will speak about a group of people of gypsy ethnicity who live in the centre of Athens. It is difficult because they have a very specific culture, which they defend and which the rest of the world uses to exclude them. They are Greek citizens with equal rights before the law, but they are illiterate, work illegally and have domestic violence. They do not marry so that the women can receive assistance as single mothers. They have the worst health care situation of Greece (alcoholism, tranquilizer and anti-depressant pill overdoses) and live in camps in the suburbs. There is conflict within the gypsy population itself, and oftentimes they do not get along with each other.

Gypsy populations usually live in more recognizable camps, but these live in areas where no one wants to go. Mixed among other immigrants, it is hard to recognize them. The women care for the children, clean the homes, work in the streets, etc. They do it all from a very young age.

At my organization, we work with 300 families (some 2,000 people) who are squatters. They have no drinking water or electricity. After the 1999 earthquake they’ve been in even worse condition. This area is centrally located, and they are trying to refurbish and promote it, which is why they want to resettle the gypsies. Many rent homes, but are soon evicted because they do not pay the rent. When they rent, they never sign a contract, because the owners prefer not to and the tenants do not ask to.

They are not disciplined within the system. They know nothing of laws, rights or obligations. They can not demand that their rights be respected because most of them are illiterate. They can not follow bureaucratic procedures. They do not know how to act and are discriminated against by civil servants because they are of gypsy ethnicity. We are the only NGO that works with the gypsy community in Athens. We receive no support or financial aid from the State. Our centre has been open since 1997. The woman who founded it worked in the street, and was well known among the people. They come to our organization simply because they trust her. The basic task of our organization is children’s education: having a place where they can play, convincing them to go to school, supporting them, etc. They come to us because we talk to them about the daily problems they face (as young people, in the jails, looking for work, etc.).

Nearly all of the Greek gypsy community’s rights are violated, despite the fact that all international laws have been signed, and that they are a recognized minority and should have rights as such.”

B. over-riding principles

i. Security of tenure, protection against eviction - Non-discrimination: “I will speak about a group of people of gypsy ethnicity who live in the centre of Athens. It is
At my organization, we work with 300 families. Lack of public policies that support them iii. The non-application of constitutional texts

On a constitutional level there is no explicit guarantee, but one can be wrought through a certain interpretation of Article 14. However, this is one of the first legal stumbling blocks: the right to housing is not specifically guaranteed as such. In the Italian constitution, Article 3 states that there can be no discrimination by gender or citizenship. These articles are our national legal source to guarantee the rights of foreign women.

On another note, there is an organization in Italy that is something of a free legal consultancy, albeit with certain restrictions. In these eviction cases, it is thought that their details are straightforward enough for the tenants to defend themselves. But, as it turns out, people cannot defend themselves due to ignorance or fear of proceedings, and therefore their problem remains invisible. Court-appointed attorneys exist, but there are private cases that do not offer access to them, for example, eviction due to non-payment. We provide that support to the degree possible, but there is no such assistance from the State. I would like to say that in Italy, an average of 72% of one’s salary is spent to pay rent.

D. obstacles

i. Social discrimination toward her group, occupational and economic instability

ii. Lack of public policies that support them

iii. The non-application of constitutional texts

4.5.3 Testimony of Cristina (Italy – Unione degli Inquilini)

I’m going to talk about legal advising for women in Rome due to discrimination of Italian as well as foreign women.

Housing contracts can be formalized by Italian and foreign women alike. But due to language problems, or lack of legal knowledge, there is discrimination against foreign women. In Italy, it is legally binding to have a contract that guarantees tenure of the dwelling. But in these cases, landlords take advantage of them, and do not formalize contracts to keep from paying taxes. In my association, the Tenants’ Union, we work above all with Philippine women. As there is no written contract, if they are evicted, there is no way to argue in their defence.

There is no guarantee of the right to adequate housing because various components are lacking: there is no legal security of possession, nor tolerable costs, the location element is ignored in resettlements because they are placed far from the city, etc.

Legal guarantees do exist on an international level. On a constitutional level there is no explicit guarantee, but one can be wrought through a certain interpretation of Article 14. However, this is one of the first legal stumbling blocks: the right to housing is not specifically guaranteed as such. In the Italian constitution, Article 3 states that there can be no discrimination by gender or citizenship. These articles are our national legal source to guarantee the rights of foreign women.

On another note, there is an organization in Italy that is something of a free legal consultancy, albeit with certain restrictions. In these eviction cases, it is thought that their details are straightforward enough for the tenants to defend themselves. But, as it turns out, people cannot defend themselves due to ignorance or fear of proceedings, and therefore their problem remains invisible. Court-appointed attorneys exist, but there are private cases that do not offer access to them, for example, eviction due to non-payment. We provide that support to the degree possible, but there is no such assistance from the State. I would like to say that in Italy, an average of 72% of one’s salary is spent to pay rent.

From associations in Italy and Spain, we are struggling to prevent evictions on economic grounds. Furthermore, these eviction cases bog the whole legal system down, as judges are occupied with them instead of other, possibly weightier issues.

There are programs on the national level, but they are very limited, and aimed at very specific categories (the elderly, disabled, etc.). It would be good to ask the State to provide aid to women, as society’s most vulnerable group.

On a municipal level, Rome is divided into 19 municipalities. In my area, we more or less halted the local evictions. The competent civil servant decided to not send the police to evict. But disciplinary proceedings were initiated against him, and at higher instances, they were able to reverse this order as unconstitutional; all municipalities had to be equal, and this led to a difference. Our association asks that there be an assurance of relocation from one home to another, to guarantee Article 11 of the ICESCR.

On a legal level, we have not been able to halt the eviction process. We have only achieved a six-month delay, with many restrictions, and only for certain categories. For others, the eviction process is halted because there are associations whose members place themselves in front of the buildings to prevent them. The situation is worsening, even leading to suicides (three up to March 2006) and hunger strikes.

Added to this situation is the new “mobbing” phenomena. This is pressure or violence that can be carried out in different areas. It can also be applied to the right to housing. It is physical, psychological and/or moral persecution.

Real estate mobbing is taking place as an attempt to kick out sitting tenants who have legal contracts, but with fixed prices lower than those now common in the market, as they pay fixed
rents. There is apparent legal security for the tenant, but there
are certain practices such as refusing to receive the rental pay-
ment, changing the home’s locks, etc. It is an offence that has
still not been classified, and as such, difficult to prosecute, al-
though on a social level it is becoming more well-known.

In the case of elderly persons in Italy, they are entitled to stay
nine more years paying what they paid before the change, or
before the rent was raised. The owners have no legal redress to
this provision, so instead they psychologically torment and mo-
olest the tenants, bothering them relentlessly, cutting off their
water, electricity, etc. There is a law at that level, but it is not
applied correctly. In Italy, there is no specific figure devoted to
cases of real estate mobbing. A report can be filed with the po-
lice for general threats, but it is difficult to prove mobbing has
taken place because there are generally no witnesses.

B. over-riding principles

i. Location: «the location element is ignored in resettlement
because they are placed far from the city.»

ii. Security of tenure: «In Italy, it is legally binding to
have a contract that guarantees tenure of the dwelling. But
in these cases, landlords take advantage of them, and do not
formalize contracts to keep from paying taxes.»

iii. Economic affordability: «[there are] tolerable
costs (...) 72% of the income goes to pay the rent.»

D. obstacles

i. The lack of legal and judicial follow-up measures

ii. Lack of judicial/constitutional guarantees on the
right to housing

iii. The limited scope of free public legal advising

iv. The lack of political action programs focusing
on women as a vulnerable group

4.5.4 Testimony of Nassima (Algeria – Maison
Nedjma pour aide aux femmes en difficulté)

«I will present cases of women living in extreme poverty, to
show how State aid may not reach the intended beneficiaries
and reveal certain unseen discriminations. The rural areas of
Algeria are very poor. Further, they suffered a great deal of ter-
norism for 12 years. Now they live in harrowing conditions.
Many have fled their homes, losing their houses, cattle, etc. The
most affected regions are found furthest away from the cities.

Women live under the domination of men, who disregard them
and exploit their physical superiority over them. Most have lost
sons and daughters, or have family members who have disap-
ppeared. The living conditions in these areas are very tough: un-
stable housing, unbearable promiscuity, high population densi-
ty, etc. Diseases related with poverty and malnutrition are
returning. There is major psychological and material despera-
tion. The women do not own land, because men are the only
ones who take possession of it.

An aid framework has been developed for the rural areas. The
State freed up some funds and drew up an aid program budg-
et for these women (land grants for agricultural activities, de-
velopment funds for rural areas, a fund especially devoted to
rural women, as they work a great deal and guarantee 90% of
the region’s produce, etc.). They can benefit from this funding
if they have a project (rabbit farming, handicrafts, etc.), applying
for it in a bank specifically for that purpose. In the rural
areas, there are chambers of agriculture (affiliates of the min-
istry). That is where things break down, because they require
women to hold ownership over the land, and have a profession-
ad degree (in an area of high illiteracy) in order to receive the
funding. This way, since the landowners are men, they are the
ones who benefit from the aid meant for rural women. In the
end, that money only reaches the richest.

In rural areas, there are no latent economic resources. The State
does not devote its efforts to building roads, electrical infra-
structure, etc.

Women are kept from having financial resources. They have no
right to information, and other rights are violated, such as the
right to dignity, to gender equality, the principle of self-deter-
mination, etc. There are many forms of discrimination against
women that are not visible at a social level.

I have worked psychologically assisting women who have suf-
f ered violence. There is no association that can exclusively de-
vote its efforts to this. There are no resources to go to remote ar-
eas for investigations. I have interviewed 12-15 women in each
region, some 50 altogether, but I’m uncertain as to the exact
amount. No studies have been conducted on these issues.

Specifically, as regards the right to housing, the family code
adopted in 1984 is discriminatory. Women, even if divorced,
do not benefit from the home. Last year an amendment was
approved for divorced women with custody of their children to keep their homes. Women have inheritance rights, but men keep double the amount (that women receive). There must be a male heir, even if the family only has daughters. The daughters may be left in the street if a cousin’s cousin inherits the home and kicks them out. On a cultural level, although the law entitles women to part of the inheritance, they would never dare claim it or oppose their brothers. Women themselves could violate the few rights granted by law to women.

B. over-riding principles

i. Non-discrimination, gender equality: «An aid framework has been developed for the rural areas. The State freed up some funds and drew up an aid program budget for these women. Land grants for agricultural activities, development funds for rural areas, a fund especially devoted to rural women, as they work a great deal and guarantee 90% of the region’s produce, etc.). (...) This way, since the landowners are men, they are the ones who benefit from the aid meant for rural women. (...) “If there are no latent economic resources, the State does not devote its efforts to building roads, electrical infrastructure, etc. (...) The women do not own land, because men are the only ones who take possession of it. (...) They are never alone, even if they widow. The unstable homes are not in their names, they do not access property. (...) The family code adopted in 1984 is discriminatory. Women, even if divorced, do not benefit from the home. Last year an amendment was approved for divorced women with custody of their children to keep their homes. Women have inheritance rights, but men keep double the amount (they receive). There must be a male heir, even if the family only has daughters. The daughters may be left in the street if a cousin’s cousin kicks them out. On a cultural level, although the law entitles women to part of the inheritance, they would never dare claim it or oppose their brothers, for example.»

D. obstacles

i. Social, occupational and economic instability.

ii. The traditional cultural concepts and the public administration’s little effort to change them.

iii. The deficient operation of public programs designed to improve women’s situation.

iv. Lack of public resources for the most remote rural areas.

4.6

PANEL 6: Housing, women, and legal and cultural discriminations

4.6.1 Testimony of Silvia (Portugal – Associação Solidaridade Imigrante, SOLIM)

«Portugal is a very young democracy. The housing in my country is in poor conditions, and all the more so for immigrants, as there is major discrimination in access to housing for them (especially Africans). Many live in poor conditions, in shanties. Banks have very strict conditions for granting loans: they require a guarantor (preferably Portuguese and white) and official work contracts. The percentage of state subsidized housing (3%) is laughable. There are housing programs, but only for the Portuguese. There is no culture of occupation: there are very few cases. It is very much looked down upon and decried by society itself.

In 1993, a special resettlement plan was drawn up to do away with the shantytowns. The plan has been decentralized to each local council, who are the ones who must resolve the case at this time, with varying available resources and varying social and economic situations.

The process of demolition has already begun, according to the census carried out in 1993. Those who were not there when the census was taken have been excluded from this plan: women with unusual working hours, men who work in construction and travel frequently, spending time outside the city, people who were absent due to illness, pregnancy, etc. Furthermore, the local council resettle without accepting factors such as separations (which took place in the time between the census and the relocation process). This way, there is a list of some 45,000 people to be resettled, but there is another group who will be left in the street.

The conditions in these areas are extremely unstable: rats, mosquitoes, typhoid fevers, etc. After the demolitions, the responsible do not take away the debris. They tear the house down and leave the debris there for weeks. On other occasions, houses have been torn down knowing that the tenants did not yet have new homes to move into, because the relocation process was frozen for some time.

People try to solve their problems by going to the municipal social services, because the housing officials do not even receive
them anymore. But this creates feelings of injustice in the community, as the cases are personalized and community solutions are not sought.

There are people threatened with eviction in the five neighbourhoods we work in. More than 30,000 families live in “unconventional” dwellings in Portugal. 800,000 homes are run-down and of these, some 350,000 have no basic infrastructures (electricity, water, sewage, etc.).

Our organization is the first since the Portuguese revolution to organize a demonstration for the right to housing. This is an untouchable taboo. The right to private property is sacred, and tenants’ allegations of incredibly deficient living conditions have not been given credit. We are creating coordination among associations, trying to come together to form a platform. This will mark a major step forward.

Despite this, within the framework of the United Nations, Portugal is one of the countries that always supports the right to housing. Additionally, the Portuguese Constitution establishes the right to housing and town planning in its Article 65. Portugal has a very progressive Constitution in terms of social rights. It all looks quite good on paper. However, we have little legal support for this issue. Even if we espouse the Constitution, the main arguments have not reached the judges. There is also much work to be done in the sensitization of the population.

B. over-riding principles

i. Non-discrimination - Habitability: «The housing in my country is in poor condition, and all the more so for immigrants, as there is major discrimination in access to housing for them (especially Africans). Many live in poor conditions, in shanties.»

ii. Non-discrimination – economic affordability: «Banks have very strict conditions for granting loans: they require a guarantor (preferably Portuguese and white) and official work contracts.»

iii. Non-retrogression – habitability: «The conditions in these areas are extremely unstable: rats, mosquitoes, typhoid fevers, etc. After the demolitions, those responsible do not take away the debris. They tear the house down and leave the debris there for weeks. On other occasions, houses have been torn down knowing that the tenants did not yet have new homes to move into, because the relocation process was frozen for some time.»

iv. Rule of Law and Autonomy – Public goods and services: «More than 30,000 families live in “unconventional” dwellings in Portugal. 800,000 homes are run-down and of these, some 350,000 have no basic structures (electricity, water, sewage, etc.)»

D. obstacles

i. Discrimination against immigrants

ii. The insufficiency of subsidized housing programs

iii. The deficient operation of the special resettlement plan

iv. The non-application of constitutional texts to practice

4.6.2 Testimony of Saloua (Morocco – Association Forum de Femmes, AFFA)

«The Alhucemas Region is located in northern Morocco. It is a mostly rural, earthquake-prone area (which feeds residents’ fear of losing their home). There are difficulties in women’s accessing public services. These are mostly based on culture: women are forbidden from leaving their homes if not accompanied by a male of the family, etc. Only Arabic can be legally spoken in the institutions and much of the population does not know this language. The media is also exclusively in Arabic. As for education, 80% of the population are illiterate, of which 90% are women.

Women are those who work the most in homes, bringing up the children, in the fields, etc. It takes them hours to reach water sources and afterwards, as they have no means of transport, they have to carry it back themselves (girls and women). Due to this, the girls do not go to school, if there is one. There are no health care or educational services, roads, electricity, water, etc. They are communities that are totally isolated. When a woman marries she does not have the right to claim her own home. They go to the husband’s parents home where they live in a room. As for inheritances, women have no right to inherit land or houses, which are always left to the males. The same thing happens when they widow. It is due to the region’s culture, which is stronger than law.

There was an earthquake on February 24, 2000. There was hardly any institutional response, nor resources to help the vic-
Help came from part of the international community, but its arrival to the people was blocked. Not only was it stored away and not given to the people, but it was also rerouted by the State itself to Moroccan military bases. Furthermore, the government does not give money to or help finance the associations that work with the people.

450 families were left homeless by the earthquake. The State carried out a construction program to replace the houses destroyed, but with bad conditions. They are homes of 40 m² for every owner. The problem is that many people did not hold the deeds to their property. Additionally, in a single home there could be four families together, occupying a space of over 170 m². Therefore, they don’t fit in the homes now being built. Many families continue living in tents, two years after the disaster. There are also families who went to other places to live with relatives because they could not bear waiting any longer. Women feel not only the material but also the moral loss: they feel naked without their homes. They have lost their dignity.

The Moroccan Constitution features many articles excluding Berbers, who are not Arabs. At the ministry responsible for housing, there is a department with many rules about dignified living conditions, construction standards, etc. Nonetheless, most building infringes these standards. Building permits have been given for areas not zoned for this purpose. On another note, earthquake dangers are not taken into account when the buildings are built.

The association’s work: in the months following the earthquake, my association was working to help get the aid from foreign donors to its destinations. We also carry out sensitization campaigns, first aid training and offer psychological support for women and children.

B. over-riding principles

i. No discrimination – Public goods and services: «There are difficulties in women’s accessing public services. These are mostly based on culture: women are forbidden from leaving their homes if not accompanied by a male of the family, etc.»

ii. Security of tenure- no discrimination: «When a woman marries she does not have the right to claim her own home. They go to the husband’s parents home where they live in a room. As for inheritances, women have no right to inherit land or houses, which are always left to the males. The same thing happens when they widow. It is due to the region’s culture, which is stronger than law.»

iii. Non-retrogression – habitability: «The State carried out a construction program to replace the houses destroyed, but with bad conditions: They are homes of 40 m² for every owner. The problem is that many people did not hold the deeds to their property. Additionally, in a single home there could be four families together, occupying a space of over 170 m². Therefore, they don’t fit in the homes now being built.»

D. obstacles

i. The traditional cultural concepts and the public administration’s little effort to change them

ii. Administrative corruption

iii. The lack of public policies geared toward improving the population’s housing conditions

iv. The non-application of national and international legal texts
4.7

Final Debate

The last session of the Consultation was reserved for us to think together of strategies for the common fight in the Mediterranean region that would permit the continuance of the work concerning the right to adequate housing started in this meeting of women.

Following the consultation, once you have returned to your different countries, working in your different associations, how do you think we can continue working? How should we continue the process in order to obtain short and long term results?

Manuela (Spain): It is not easy to mobilise NGOs from numerous countries, however I think it would be a good idea for us to meet again within a predetermined time and that the Observatori DESC continues to be the institution that keeps in touch with each association, in order to bring together distances, languages, situations etc. I would convene the group within a maximum period of 3 years.

Simona (Italy): This has been an important experience for us as we have got to know a reality that is not usually shown in the media. Moreover, while considering the problem, it was possible to see that there were tendencies and similarities in the cases of all the countries, beyond the social and cultural differences that exist. In the European countries it is possible to see a loss of respect for people. Starting to vindicate that another Europe exists and continuing to do so is a matter of survival. When I go back to Italy a priority will be to organise a public meeting, one in which journalists are present, in order to talk about what I have experienced here and this other Europe. I also believe that, as far as we are concerned, it is important to use e-mail as a form of communication, above all if something happens to us. Create a chain of voices, be concerned, look after each other, would be something important to count on.

Najat (Tunisia): I would like to suggest a work strategy following this meeting. That those organisations present try to organise co-ordination groups at a local, regional, national and euro-Mediterranean level. At the same time, we should also involve environmental, health, education associations etc. I suggest that we make reports that could be presented to the Rapporteur. In the regional arena, we could carry out effective campaigns in order to put pressure on the authorities for the application of the laws. It would be interesting for us to organise training courses in each region or country, so that the associations can carry out their campaigns effectively and so that we could exchange information about these experiences, etc. It is important to disseminate the information that we have so that it is of use to us all.

Maria Inés (Spain): I think we should take advantage that the media is going to be there in order to have a demonstration, write pamphlets, etc. and as such show that we have learnt something and that we are claiming rights that have been violated.

Vanesa Valiño (OBSERVATORI DESC): It is necessary to vindicate the right to housing on a European scale. Political action is necessary in order to do this.

Rojbin (Turkey): Meeting you has been important, as it has allowed me to see that there are people working for others in different parts of the world. You have given me strength. I would like to thank Observatori DESC, as I now have a clear understanding of what the right to adequate housing is and I would also like to thank you for having organised this meeting. It would be interesting if we could compare what we have learnt: giving a testimony before and after the training.

Miloon Kothari (SR): I am always sorry when these meetings come to an end, it has been five wonderful days of sharing ideas with you all. This is the seventh regional consultation, and all have ended with the female participants expressing a great desire to continue the work. In some countries they have carried out national consultations in other seminars about women in regional and national forums. National and international NGOs play an important role. The HIC network is available to you for whatever you need. This meeting will be made into a report or possibly a book, but this is more likely to be a separate publication. The conclusions of this consultation shall contribute to a publication that is being developed in the UN and which will be published this year. On the other hand, you have been discussing cases from your countries, I hope that you now realise that if you send us your cases the Rapporteurs can make communications to your governments. I do not know if we will be able to follow all of the cases, however we will try to do all that we can from the UN.
And finally, Can you share positive experiences? Can you give an example?

**Manuela (Spain)**: I believe that in Spain that the law for women who are Victims of Domestic Violence is an important and positive step. Now the only thing missing is how it is going to be applied. Not everything is being complied with, nor does it have enough prerequisites or effects. However, it is true that Spain is trying to protect women via various means. It is also very positive that we are all here.

**Rojbin (Turkey)**: As a positive aspect I am going to present a case in a Turkish court and we are going to organise training concerning the right to adequate housing in the national arena.

**Nassima (Algeria)**: For quite some years in Argelia, the State has been giving large amounts of money towards and making an effort to guarantee housing. There are conditions to enable members of the middle-class to have access to housing Moreover, more and more people are benefiting from social housing, even though it is still necessary to deal with the problems of old houses and those which are in poor conditions.

**Claude (France)**: My association has managed to get 10,000 families re-located.

**Lourdes Ríos (Observatori DESC)**: We promise to stay in touch with you all and to continue working together.

**Miloon Kothari (SR)**: Thank you all for coming and I would like to congratulate you on your commitment, courage and work which inspires me to continue. I hope that we can all stay in touch.
The Mediterranean Consultation about women and housing is the last of eight consultations carried out in different regions of the world\(^1\). Once again, this meeting has given women from different countries and with different traditions the opportunity to share experiences and problems concerning the access to housing rights – the right to adequate housing, to land and an appropriate environment – by women.

Women linked to organisations in 10 countries - Italy, France, Morocco, Algeria, Tunisia, Greece, Croatia, Turkey, Portugal, and Spain, as well as a representative of the Saharan - have participated in this consultation; they have different social realities and in some cases they are in cultural terms widely separated if not in open conflict. However, despite the differences, the geographical identity of the Mediterranean basin and the specific problem facing the gender has been the common ground for this meeting.

The debates and testimonies given during this consultation, as was the case of the earlier consultations, have confirmed the need to go beyond a formal recognition of housing rights and the principle of equality between men and women and that of non-discrimination.

Indeed, despite the fact that one sees fewer and fewer Mediterranean countries formally discriminating against women, the truth of the matter is that there are still a great deal of social, economic and cultural obstacles that Mediterranean women have to face in order to put their rights into effect.

The voices of woman in the form of testimonies, presented within the framework of the consultation, are an indispensable source of knowledge and reflexion concerning the living conditions of women. Similarly, their contributions are of great material value for the development of the next report that the Special Rapporteur for adequate housing, Miloon Kothari, shall present before the United Nations Human Rights Committee\(^2\).

In this manner, one of the main contributions of the Consultations consists in allowing organisations and groups from different countries that work in promoting

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1 Regional Consultation of Africa, Kenya, October 2002; Regional Consultation of Asia, India, October 2003; Regional Consultation of Latin America, Mexico, December 2003; Regional Consultation of the Middle East, Egypt – July 2004; Regional Consultation of the Pacific, Fiji - October 2004; Regional Consultation in North America, Washington D.C October 2005, Regional Consultation of Western Europe, November 2005.

2 The presentation of these reports is in response to Decision 2002/49 of the Commission of Human Rights of the United Nations.
the housing rights of women to get to know and reflect upon the obstacles that women undergo in order to have access to a place to live in peace and with dignity.

Specifically, the main obstacles detected by women to be able to have access to their housing rights are the following:

• Lack of a rule of law and institutional democracy, particularly in the overcoming of violence and discrimination against women.

• Insufficient political willingness in the implementation of international and national rules which establish housing obligations.

• Discrimination against women in the access to public services.

• Excessive confidence placed in the free market: privatisation of housing both in the area of rental as well as that of ownership of property and land.

• Multiple discrimination faced by women, which means that as well as having to overcome obstacles due to the fact that they are female they also have to overcome those related to their ethnic origin, economic condition, sexual orientation, legal situation etc.

• The difficulty women face in accessing information about what their housing rights are and how to fight for them.
International and regional legislation that recognises the right to housing and guarantees women’s access to the same.

**International legislation**

1. **Universal Declaration of Human Rights (1948)**

2. **International Pact on Economic, Social and Cultural Rights (1966)**, article 11.1: “The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right (...).” This Pact was ratified by Morocco on August 3, 1979.


   - Ratified by Algeria on June 21, 1996 with Reservation.\(^{25}\)
   - Ratified by Croatia on October 9, 1992.
   - Ratified by France on January 1990.\(^{26}\)
   - Ratified by Greece on July 7, 1983.

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\(^{25}\) Algeria’s Reservations to the **CEDAW**: Article 2: The Government of the People’s Democratic Republic of Algeria declares that it is prepared to apply the provisions of this article on condition that they do not conflict with the provisions of the Algerian Family Code. Article 9, paragraph 2: The Government of the People’s Democratic Republic of Algeria wishes to express its reservations concerning the provisions of article 9, paragraph 2, which are incompatible with the provisions of the Algerian Nationality code and the Algerian Family Code. The Algerian Nationality code allows a child to take the nationality of the mother only when: - the father is either unknown or stateless; - the child is born in Algeria to an Algerian mother and a foreign father who was born in Algeria; - moreover, a child born in Algeria to an Algerian mother and a foreign father who was not born on Algerian territory may, under article 26 of the Algerian Nationality Code, acquire the nationality of the mother providing the Ministry of Justice does not object. Article 41 of the Algerian Family Code states that a child is affiliated to its father through legal marriage. Article 43 of that Code states that “the child is affiliated to its father if it is born in the 10 months following the date of separation or death”. Article 15, paragraph 4: The Government of the People’s Democratic Republic of Algeria declares that the provisions of article 15, paragraph 4, concerning the right of women to choose their residence and domicile should **not be interpreted in such a manner as to contradict the provisions of chapter 4 (art. 37) of the Algerian Family Code. Article 16**: The Government of the People’s Democratic Republic of Algeria declares that the provisions of article 16 concerning equal rights for men and women in all matters relating to marriage, both during marriage and at its dissolution, should not contradict the provisions of the Algerian Family Code. Article 29: The government of the People's Democratic Republic of Algeria does not consider itself bound by article 29, paragraph 1, which states that any dispute between two or more Parties concerning the interpretation or application of the Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration or to the International Court of Justice. The Government of the People's Democratic Republic of Algeria holds that no such dispute can be submitted to arbitration or to the Court of International Justice except with the consent of all the parties to the dispute.
The Charter of Fundamental Rights of the European Convention for the Protection of Human Rights and (g) The Government of the French Republic enters a reservation concerning the arbitration or consideration by the International Court of Justice only with the consent of all parties to the dispute. The Tunisian Government considers that such disputes should be submitted for interpretation or application of the present Convention which is not settled by negotiation shall be referred to the International Court bound by the provisions of paragraph 1 of that article which specify that any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall be referred to the International Court of Justice at the request of any one of those parties. The Tunisian Government considers that such disputes should be submitted for interpretation or application of the present Convention which is not settled by negotiation shall be referred to the International Court of Justice at the request of any one of those parties.

The Tunisian Government expresses its reservation with regard to the provisions in article 15, paragraphs (c), (d), (f) and (h): The Tunisian Government considers itself not bound by article 16, paragraphs (c), (d) and (f) of the Convention and declares that paragraphs (g) and (h) of that article must not conflict with the provisions of the Personal Status Code concerning the granting of family names to children and the acquisition of property through inheritance. Article 29, paragraph 1: The Tunisian Government declares, in conformity with the requirements of article 29, paragraph 2 of the Convention, that it shall not be bound by the provisions of paragraph 1 of that article which specify that any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall be referred to the International Court of Justice at the request of any one of those parties. The Tunisian Government considers that such disputes should be submitted for arbitration or consideration by the International Court of Justice only with the consent of all parties to the dispute.

Turkey’s Reservations: Reservations of the Government of the Republic of Turkey with regard to the articles of the Convention dealing with family relations which are not completely compatible with the provisions of the Turkish Civil Code, in particular, article 15, paragraphs 2 and 4, and article 16, paragraphs 1 (c), (d), (f) and (g), as well as with respect to article 29, paragraph 1. In pursuance of article 29, paragraph 2 of the Convention, the Government of the Republic of Turkey declares that it does not consider itself bound by paragraph 1 of this article.

French Reservations: Article 14: The Government of the French Republic declares that article 14, paragraph 2 (c), should be interpreted as guaranteeing that women who fulfill the conditions relating to family or employment required by French legislation for personal participation shall acquire their own rights within the framework of social security.

Article 14, paragraph 2: The Government of the French Republic declares that article 14, paragraph 2 (h), of the Convention should not be interpreted as implying the actual provision, free of charge, of the services mentioned in that paragraph.

Article 16: The Government of the French Republic enters a reservation concerning the right to choose a family name mentioned in article 16, paragraph 1 (g), of the Convention. Article 29: The Government of the French Republic declares, in pursuance of article 29, paragraph 2, of the Convention, that it will not be bound by the provisions of article 29, paragraph 1.

Below you shall find outlined the synthesis of national legislation concerning the right to adequate housing and women in Algeria, Croatia, Spain, Italy, Greece, Morocco, Portugal, Tunisia, and Turkey.

**Algeria**

**Constitution of 1996, article 29:** "all citizens are equal before the law. There shall be no discrimination based on race, sex, opinion or any other personal or social circumstance or condition."

**Article 31:** "The aim of the institutions is to ensure the equality of rights and obligations among all citizens, men and women, doing away with any obstacles which impede the progress of human beings, or which impede the effective participation of all in political, economic, social and cultural life."

**Article 32:** "Fundamental human rights, and civil rights and liberties shall be guaranteed. They are the common patrimony of all Algerians, men and women, who have the duty of conveying them from one generation to the next to conserve them and keep them inviolable."

**Article 40:** "The State guarantees the inviolability of the home (...)"

**Article 52.1:** "private property is guaranteed. 2: the right to inherit is guaranteed."

**Article 132:** "the treaties ratified by the President of the Republic in accordance with the conditions specified in the Constitution shall be above the law."

Equality between men and women is recognized in the Constitution of Algeria, but is not guaranteed in other national-scope legal provisions, especially the Family Code (1984). The latter denies Algerian women their fundamental rights, especially that of getting married of their own free will, the right to divorce in an equal manner as men, the right to share family responsibilities and the education of their children, the same rights as their spouses in relation to the custody of their children, the right to dignity and self-esteem and above all the abolition of polygamy.

**Croatia**

**The Croatian constitution, Article 14:** "In the Republic of Croatia, all persons shall enjoy all rights and freedoms without distinction for reasons of race, colour, gender, language, religion, political or other opinions, national or social origin, economic position, birth, education, social situation or other characteristics. All shall be equal before the law."

**Article 48,** "The right to property is guaranteed." Property obliges and commits. The owner and user of the right to property are bound to contribute to the common good(...) The right to inheritance is guaranteed".

**Constitutional Law on Human Rights and Freedoms, and on National Rights of the National and Ethnic Communities or Minorities of December 1991.**

**French**

**Preamble of the French Constitution of October 4, 1958,** revised following the constitutional reform voted in referendum on September 24, 2000: this Constitu-
tion does not feature a chapter of social rights per se. Rather, they are recognized in its preamble, by its accession to the principles defined in the Declaration of 1789 and in the Preamble of the 1946 Constitution. It is from this preamble of 1946 that we take the grounds for our arguments, as it “Proclaims, furthermore, as specifically necessary for our times, the following political, economic and social principles: (...) The law guarantees women rights equal to those of men in all realms. (...) All have the duty to work, and the right to have an occupation. (...) No one may be discriminated against in their work or occupation for reasons of origin, their opinions or beliefs. (...) The Nation provides individuals and families with the conditions necessary for their development. (...) It guarantees to everyone, especially children, mothers and elderly workers, protection of their health, material safety, rest and leisure time. All human beings who are unable to work for reasons of age, physical or mental condition or economic situation shall have the right to obtain dignified means to live from the community.

Article 1: “France is an indivisible, secular, democratic and social Republic. It ensures equality before the law of all citizens regardless of origin, race or religion, and respects all beliefs.

Article 55: “Duly ratified or approved treaties or agreements shall have, from the time of their publication, an authority superior to that of laws, pending application by the other party.

"Pasqua Law" on the entry and residence of foreigners, articles 15 bis and 30: “residency permits shall not be granted to any foreigner living in polygamy; (...) When a polygamous foreigner resides in French territory with their first spouse, the family reunification benefits may not be granted to another spouse.”

**Greece**

Constitution of 1975, Article 4.1: “All Greeks are equal before the law. 2. Greek men and women shall have the same rights and obligations.”

Article 9.1: “The personal domicile is considered a shelter. The individual’s private and family life is inviolable.”

Article 17.1: “Property shall be under the protection of the State, although the rights directly derived from it may not be used to the detriment of the general interest. 2. No one may be deprived of their property, except in cases of duly proven public use, in the cases and in accordance with the procedures stipulated by the law, and always following total prior compensation.”

Article 20.1: “All Greeks shall have the right to legal protection before the courts, and shall be able to express before them opinions on their rights and interests, in accordance with the provisions of the law”.

Article 21.3: “The State shall protect citizens’ health, and shall take special measures for the protection of youth, the elderly and the disabled, as well as for assistance of the destitute. 4. The acquisition of housing by those who do not have it, or are housed with insufficient means shall be an area of special attention by the State.”

Greek legislation has included subject matter to combat violence against women and violations of human rights.

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**Italy**

Italian Constitution of 1947: it does not explicitly acknowledge the right to housing, although it does recognize that of private property and the social role it must play for those who do not have a home. An implicit guarantee may be achieved through a certain interpretation of Article 14 (which establishes the inviolability of the home) so that it extends to the right of each individual to have a suitable home that ensures the free development of one’s private life.

Article 2 of the Constitution states that, “the Republic acknowledges and guarantees mankind’s inviolable rights” and the right to housing is included in the right to life.

Article 3 is also relevant: “All citizens shall have the same social dignity and shall be equal before the law, with no distinction based on gender, race, language, religion, political opinion or personal and social circumstances. It establishes the Republic’s obligation to do away with any obstacles of an economic and social nature which, as they limit the freedom and equality of citizens, block the full development of human beings and the effective participation of all workers in the political, economic and social organization of the country.”

Article 14: The home is inviolable. It is not possible to carry out inspections, searches or seizures except in those cases and the categories established by law and in accordance with guarantees prescribed to safeguard personal liberty. Health and public health checks and inspections or those which have economic or tax ends shall be regulated by special laws.
Law 431/98 on rental regulation (of December 9, 1998) which introduces free market rents, according to which owners shall have the right to decide, with no limitation whatsoever, the market price of their property’s rental.

Morocco

Moroccan Constitution: Article 9: “The Constitution guaranteed all citizens: freedom of movement and to establish themselves in all parts of the Realm; freedom of opinion, freedom of expression in all its forms and freedom to meet; freedom of association and the freedom to become a member of any union or political organisation of their choice. Only the law can limit the exercise of these freedoms.”

Article 15: “The right to property and free enterprise are guaranteed. The law can limit its extension and practice if the requirements of economic and social development so require. Expropriation may only be conducted in the cases and ways stipulated by the law.”

The Moroccan constitution proclaims the right to safety, to adequate housing irrespective of gender.

Mudawana, Family Code amended in 2004: Men and women are declared equal in their relationship as a couple. Both assume responsibility for all family decisions. Women can obtain custody of their children, despite being divorced. The Code establishes to distribute between the spouses those goods obtained during the marriage, even though the regime of separation of estates applies to the goods of the marriage. Following the amendment of 2004 the wife is no longer under the obligation to obey her husband.

Article 40 of the Mudawana: “Polygamy is prohibited if there is a fear of some form of injustice between the wives, it is also prohibited if the option of monogamy was foreseen in the marriage.”

Article 78: Divorce as an instrument to dissolve the marriage, may be exercised by either the husband and wife, according to the conditions of each. Divorce shall be under judicial control and following the articles of this code.”

Portugal

Constitution of 1976: developed after the so-called Revolution of Carnations (in which the Armed Forces Movement ousted the fascist government existing up to them), it is highly advanced in social terms.

Article 65 establishes the right to housing and town planning: “1. All citizens shall have housing of adequate size for themselves and their families, in proper hygienic and comfort conditions, and that conserves personal and family privacy. 2. To ensure the right to housing, the State shall be responsible for the following: a) to plan and carry out a housing policy within territorial planning, based on planning that guarantees the existence of an adequate network of transports and public services (social facilities); b) to stimulate and support the initiatives of local communities and the population geared to resolve the respective housing problems and promote independent construction and the creation of housing cooperatives; c) to stimulate private construction, subjected to the general interest. 3. The State shall adopt a policy geared toward establishing a rental system compatible with family income and for access to home ownership. 4. The State and local autonomous organizations shall exercise effective control over the housing base. They shall carry out the necessary nationalization or municipalisation of urban lands, and shall define the respective usage rights.”

Other articles relevant to the case at hand:

Article 15.1: Foreigners and stateless individuals who find themselves or reside in Portugal shall enjoy rights and be subject to the obligations of Portuguese citizens.

Article 16.1: The fundamental rights established in the Constitution do not exclude any others resulting from the applicable laws or rules of international law. 2. The constitutional and legal precepts relative to fundamental rights must be interpreted and integrated in keeping with the Universal Declaration of Human Rights.

Article 21.1: “The State and other public bodies shall be civilly liable, jointly with the leaders of their bodies, civil servants or agents, for any actions or omissions in the exercise of the respective duties, when a violation of the rights, freedoms or guarantees, or harm to a third party, results due to their development.

National Action Plan for Inclusion (2001) which protects vulnerable populations such as the homeless or immigrants, and intends to “promote access to all goods, services and rights”, specifically referring to the “access of each person to a dignified, healthy home as well as the necessary services.”
Spain

Spanish Constitution:
Article 13.1: “Foreigners shall enjoy in Spain the public freedoms guaranteed by this Title in the terms established by the treaties and the law.”
Article 14: “All Spaniards shall be equal before the law, and there shall be no discrimination for reasons of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.”
Article 47: “All Spaniards shall have the right to enjoy dignified, adequate housing. The authorities shall promote the conditions necessary and establish the rules relevant to make effective this right, regulating the use of land in accordance with the general interest to prevent speculation. The community shall participate in any surpluses generated by authorities’ town planning activities.”

The comprehensive law against gender violence protects women against any manifestation of discrimination, situation of inequality and power relations in which men dominate women. The law establishes comprehensive protection measures whose purpose is to prevent, punish and eradicate this violence and provide aid to its victims. In Article 28, it guarantees access to housing and public nursing homes for the elderly. The women who are victims of gender violence shall be considered priority groups for access to subsidized housing and public residences for the elderly. The Organic Law of the Judiciary Branch as well as the Comprehensive Protection Law against violence call for jurisdictional protection against violation of fundamental rights.

Organic Law 4 of January 11, 2000 on the rights and freedoms of foreigners in Spain and their social integration:
Article 3.1: “Foreigners shall enjoy in Spain the public freedoms guaranteed by Title I of the Constitution in the terms established by the international treaties in this law and in those regulating the exercise of each of them. As a general interpretative criterion, it shall be understood that foreigners exercise the rights recognized by this law in conditions of equality with Spaniards.
3.2. “The rules relative to the fundamental rights of foreigners shall be interpreted pursuant to the Universal Declaration of Human Rights and with the International Treaties and Agreements on the same subjects in force in Spain, and the profession of religious beliefs or ideological or cultural convictions of any nature shall not be used to justify any acts or behaviours which are contrary to them.”
Article 13. “Resident foreigners shall be entitled to the housing aid system in the same conditions as Spanish nationals.”

Túnez

Tunisian Constitution, 1991: it does not recognize the right to housing as such, nor does it have a specific chapter on rights and freedoms.
In this case of a Tunisian woman who emigrated to France, the Tunisian authorities could be held accountable, on grounds taken from the Preamble of the Constitution: “We proclaim that the Republican Regime constitutes: the best guarantee for the respect of rights and obligations of all citizens; the most effective resources to ensure the prosperity of the nation with the economic development of the country and the use of its wealth to the benefit of the people; the surest way to ensure protection of the family and guarantee it for each occupation, health care and citizen education.”

Turquía

The Turkish Constitution, Article 10. “Everyone is equal before the law, regardless of their language, race, colour, sex, political or philosophical opinion, religion or sect, or whatsoever other analogical consideration”.
Article 41: ” The family is the foundation of Turkish society. The State must take the necessary measures and establish the appropriate organisation in order to guarantee the peace and well-being of the family; especially the protection of the mother and children, as well as providing sex education and applying family planning”.
Pursuant to Article 90 of the Turkish Constitution, the duly approved international treaties have the force of law and can be invoked in Turkish courts.
A brief normative compendium regarding the different components that form the right to housing according to the General Comments:

1) ECONOMIC ACCESSIBILITY

- Universal Declaration of Human Rights (1948), Articles 23.1 & 23.3
- Convention 131 of the International Labour Organization concerning Minimum Wage Fixing, with Special Reference to Developing Countries (1970), article 3.
- International Covenant on Economic, Social and Cultural Rights (1966), article 7(a(ii).
- Committee on Economic, Social and Cultural Rights, General Comment No. 4: “The Right to Adequate Housing” (1991), 8(c).
- R 115 Workers’ Housing Recommendation of the International Labour Organization (1961), II.4

Financing:

- Universal Declaration of Human Rights (1948), Articles 23.1 & 23.2.
- Convention on the Elimination of All Forms of Discrimination against Women (1979), 13(a) & 13(b).
- Declaration on Cities and Other Human Settlements in the New Millennium (Habitat II +5 United Nations General Assembly Resolution S-25/2 [2001]), 45.
- Committee on Economic, Social and Cultural Rights, General Comment No. 4: “The Right to Adequate Housing” (1991), 8(c).

2) PHYSICAL ACCESSIBILITY

- Convention on the Elimination of All Forms of Discrimination against Women (1979) 14.2(g) & 14.2(h)
- International Convention on the Elimination of All Forms of Racial Discrimination (1965), article 5
- Convention relating to the Status of Refugees (1951), article 21
- Human Rights Committee (HRC) General Comment No. 28 (68), “The equality of rights between men and women” (2000), 3, 4 y 19
- Committee on Economic, Social and Cultural Rights, General Comment No. 6, “The economic, social and cultural rights of older persons” (1996), 33
- Committee on Economic, Social and Cultural Rights, General Comment No. 5, “Persons with disabilities” (1994), 33
- Committee on Economic, Social and Cultural Rights, General Comment No. 4, “The right to adequate housing” (1991), 8(e) on “Accessibility”
• Declaration on Race and Racial Prejudice (UNESCO, 1978), article 9.2
• Vancouver Declaration On Human Settlements (1976), III.8

3) SECURITY OF TENURE

• Universal Declaration of Human Rights (1948), article 17.1.
• Committee on Economic, Social and Cultural Rights, General Comment No. 4, “The right to adequate housing” (1991), 8(a)
• International Convention on the Elimination of All Forms of Racial Discrimination (1965), article 5
• International Labour Organization (ILO) Convention No. 117 Concerning Social Policy (Basic Aims and Standards) (1962), 4
• Charter of Fundamental Rights of the European Union (2000), article 17. Right to property, 1
• African Charter on Human and Peoples’ Rights (1981), article 14
• Plan of Implementation of the Decisions of the World Summit on Sustainable Development (2002), 7(h), 40(i) y 67(b)
• Declaration on Cities and Other Human Settlements in the New Millennium (Habitat II +5 United Nations General Assembly Resolution S-25/2 [2001]), 38
• United Nations Millennium Declaration (2000), 19
• Global Strategy for Shelter to the Year 2000 (UNGAR 43/181) (1988), point 13
• Istanbul Declaration on Human Settlements (Habitat II), The Habitat Agenda, adopted by the United Nations at the Second United Nations Conference on Human Settlements (Habitat II) (1996), 8, 39, 40 and 61(b)
• Agenda 21, adopted by the United Nations at the Conference on Environment and Development (UNCED) (1992), 7.9
• Commission on Human Rights, Resolution 1993/77, “Forced evictions”.

4) SECURITY AND INTIMACY

• Universal Declaration of Human Rights (1948), article 12.
• International Covenant for Civil and Political Rights (1966), article 17.1.
• Charter of Fundamental Rights of the European Union (2000), article 7.
• Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR) (1950), article 8.5
• Declaration on the Elimination of Violence against Women (1993), article 2.

5) HABITABILITY

• Universal Declaration of Human Rights (1948), article 12.
• International Covenant on Economic, Social and Cultural Rights (1966), article 12.1.
• Convention No. 117 of the International Labour Organization, regarding Social Policy (Basic Aims and Standards) (1962), 4.
• Convention relating to the Status of Refugees (1951), article 21.
• “Health and Housing: How Homelessness and Bad Housing Impact on Physical Health” (London: Shelter, 2000)
• The right to adequate housing: progress report submitted by Mr. Rajindar Sachar, Special Rapporteur appointed pursuant to resolution 1992/26 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and decision 1993/103 of the Commission on Human Rights (E/CN.4/Sub.2/1993/15), 44.
• Committee on Economic, Social and Cultural Rights, General Comment No. 4: “The Right to Adequate Housing” (1991), 8(d) “Habitability”
6) LOCATION

- Committee on Economic, Social and Cultural Rights, General Comment No. 4, “The right to adequate housing” (1991), 8(f), on “Location”.

7) PUBLIC GOODS AND SERVICES

- International Covenant for Civil and Political Rights (1966). Article 25(c)
- European Social Charter (1961). Articles 14 y 16
- Plan of Implementation of the Decisions of the World Summit on Sustainable Development (2002), 7(c), 10(a), 54(b) y 96.
- World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Programme of Action (2001), 100
- Committee on Economic, Social and Cultural Rights, General Comment No. 14, “The right to the highest attainable standard of health” (2000), 43.
- Sub-Commission on Prevention of Discrimination and Protection of Minorities, Resolution 1998/26, “Housing and property restitution in the context of the return of refugees and internally displaced persons”
- The Arab Declaration on the Sustainable Development of Human Settlements (Rabat Declaration) (1995), 8
- Declaration on the Right to Development (GAR 41/128 [1986]). Article 8.1.
- Declaration on Social Progress and Development (1969). Article 18.d

8) SECURITY OF THE PERSON AND INTIMACY

- Universal Declaration of Human Rights (1948), Article 12.
- International Covenant for Civil and Political Rights (1966), Article 17.1.