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<cn>2<em><ct>The right to housing

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## <a>2.1<em><ct>Why a right to housing?

Housing provides and protects some of our most fundamental needs. It shields us from the elements and provides refuge from external physical threats. It gives us a base from which to build a livelihood and take part in the community, from the neighbourhood to the state. Moreover, housing provides a space in which our psychological needs can be met and fostered. As I have explored elsewhere, housing is important in the formation and protection of identity, community and place in the world (Hohmann, 2013).

The recognition of the right to housing *in law* is based on an appreciation of the importance of housing to privacy, autonomy and freedom; its function in facilitating participation and inclusion in society; and its role in providing the material goods that make all of these things meaningful and possible. In other words, the principles that inform and underlie the right to housing include some of the most fundamental concerns of human rights (Hohmann, 2013). Moreover, while aspects of a person's relationship with her housing and home may be protected by rights to privacy, property, liberty and security, by rights to vote and to freedom of expression, a right to housing shifts the focus, insisting that housing is not instrumental to the realization of other human needs and goods, but itself fundamental (Hohmann, 2013).

If we understand the right to housing in this way, we are faced with a complex and multifaceted right, which touches on the relationship between the individual and the state, the public and the private, inclusion and exclusion. Its realization is deeply affected by and tied up with a range of other political, economic and ideological problems and phenomena.

When I began my PhD on the right to housing in 2005, a frequent response to my research was that the right to housing wasn't really a human right at all: it was insufficiently fundamental, insufficiently universal, and of relevance only in developing country contexts. The right is now appreciated as fundamental to a decent human life, seen as a universal need, and recognized as a right that is violated in the richest, as well as poorest, states. Meanwhile, it is harnessed by social movements and activists contesting the seemingly relentless commodification and financialization of housing; the privatization of public goods and space; and the spatial, social, and economic marginalization of communities who fail to fit the ideal of neoliberal consumer citizen.

The increasing recognition of the fundamental importance of the right to housing is tied to increasingly stark violations of it. In cities such as Sydney, Hong Kong and London, those jewels in the crown of globalization, housing is increasingly unaffordable, as it becomes financialized and hooked into global markets where its worth and purpose are divorced from the needs of those who live in it (Langley, 2008; Rolnik, 2013; also see Chapters 3 and 4). At the same time, in these and in other places, from Cape Town to Bogota, informal settlements are bulldozed and poor or minority neighbourhoods 'regenerated', to make way for mega-events or city beautification. Social or subsidised housing is left to crumble, its residents increasingly seen as non-productive and therefore as falling short as citizens (Malpass & Murie, 1982, p. 174). In rural settings, indigenous and peasant communities, for whom a right to housing includes deep attachments to and knowledge of land and place, are displaced by extractive industries, 'conservation' and agricultural land-grabbing (Murphy et al., 2017, p. 687). The vignettes that follow illustrate two manifestations of violations of the right to housing, which are related to each other, and to broader phenomena such as global inequality, privatization and financialization, phenomena which emerge as major research agendas for the right to housing going forward.

## **<a>2.2<em>The violation of the right to housing: two vignettes**

### **<b>2.2.1<em>The Grenfell Tower Fire: June 2017, London, UK**

In the early hours of 14 June 2017, the 24 storey Grenfell Tower was engulfed in fire. Although located in an affluent area of London, Grenfell was a residential building bearing the aesthetic hallmarks, and ideological ‘baggage’, of the UK’s post-war high-rise social housing (Hanley, 2012). More than 70 people caught in the blaze were burned to death or died from their injuries. Flames spread rapidly, fuelled by combustible insulation which was a component of new cladding, applied to the building primarily to ‘update its look’ when viewed from the affluent homes surrounding it (Griffin, 2017). This cladding, which was cheaper than other options, was not rigorously tested for fire safety, and should not have been able to pass building regulations (Pasha-Robinson, 2018). The tower’s mainly working class or lower-income residents had struggled repeatedly to make their concerns about the safety and adequacy of their housing heard (Hastie, 2017; Foster, 2017). The rights – and ultimately lives – of the tower’s inhabitants were sacrificed to a combination of deep cuts to social housing and the social goods and benefits that support it (from welfare payments to access to legal aid), disinvestment in its upkeep despite the stunning wealth surrounding it, and explicit and implicit disclaiming of responsibility for it, and its inhabitants.

The devastating fire has exposed the challenges posed to realizing a right to housing in the face of the deregulation and privatization of public goods, services and space. It has shone a light on the lack of care for marginalized and poor communities (also see Chapter 9). At the same time, the right to housing has emerged as a potent strand in protests demanding justice for Grenfell, which connect the disastrous event with broader movements seeking to reclaim housing as a right (Focus E 15, 2017; Farha, 2017; Equalities and Human Rights Commission, 2018).

### <b>2.2.2<em>Forced evictions for carbon trading, Uganda, February 2010

Mubende and Kibonga, Uganda, have long been settled by subsistence farmers whose patterns of land use and ownership map uneasily onto dominant (neo)liberal conceptions of property rights (Murphy et al., 2017, pp. 681–2). These communities supported themselves with pride. One displaced resident recalls ‘I remember my land, three acres of coffee, many trees – mangoes and avocados ... two beautiful permanent houses. My land gave me everything from my living to my children’s education. People use to call me *Omataka*, someone who owns land ... [but] I am one of the poorest now’ (quoted in Grainger & Geary, 2011, p. 2).

Characterizing the inhabitants as backward and primitive, in 2005 the Ugandan government granted licences to UK based New Forests Company to create timber plantations in Mubende and Kibonga, which Uganda planned to trade for carbon credits on the global market (Kron, 2011). The World Bank, itself an investor in the scheme, considers that Uganda’s policies provide a model climate for economic development and foreign investment (International Bank for Reconstruction and Development, 2004; World Bank, 2015), and its participation echoes and recreates colonial histories of ‘socially constructed resource scarcity’ (Murphy et al., 2017 p. 679).

Residents, characterized as ‘illegal encroachers’, were pressured to leave. On 28 February 2010, while the community of Kicucula were at Church, police arrived and executed a brutal forced eviction, one of a string of violent acts of intimidation. Schools and communities were destroyed, homes and possessions burnt, and people beaten and killed (Grainger & Geary, 2011; Kron, 2011). Families, once self-sufficient, were forced off their land and out of their homes. As many as 22,500 people were evicted, now living a precarious existence as landless labourers (Grainger & Geary, 2011), or having migrated to nearby cities

where cycles of immiseration and forced urbanization and migration are perpetuated (Carmody & Taylor, 2016).

The backdrop to the evictions and the ‘knock-on’ rights violations is a national land policy that aims to transform Uganda ‘from a peasant society to a modern, industrialised and urbanised society’ and to ensure that it protects the rights of citizens ‘to own land which should be optimally utilised’ (Republic of Uganda, Ministry of Lands Housing and Urban Development, 2013, p. iii).

In the face of such deprivation and violation what can the right to housing as enshrined in international human rights law, or in national constitutions ‘do’? How can it be harnessed by those of us seeking to contest the deracination, commodification and marginalization of our neighbours and fellow citizens?

In the sections that follow, I provide a synopsis of the right to housing in international law, with particular attention to the potential and limitations of the legal right. I discuss the importance of it as a political or discursive claim, and I analyse three issues requiring attention: privatization, financialization and equality, which pose serious challenges for realizing the right. However, I argue, the right to housing also offers opportunities to contest and resist these pressures. As such, they provide a major research agenda going forward.

### **2.3 The right to housing in international law: scope, content and obligations**

Socio-economic rights, including the right to housing, are often perceived to be the poor cousins of the rights world. States and commentators sometimes argue they are merely moral exhortations, and their content is perceived to be vaguer than so-called civil and political rights, and thus obligations harder to define or enforce (Eide and Rosas, 2001, pp. 3–7; Bates, 2007, pp. 263–65). However, in the last 20 years, the content and scope of the right to

housing in international law have been given a significant degree of specificity. This has occurred through the work of UN expert bodies, activists, advocates and scholars.

At the international level, the key legal framework is provided by the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), which is ratified by 166 states, who are obliged to respect, protect and fulfil the rights set out in it.<sup>2</sup> Housing is included as an element of the right to an adequate standard of living, in Article 11(1):

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

Housing is thus not seen in isolation, but as a building block for a life in community with others. The right is not one to shelter, but to *adequate housing*, which has been interpreted by the expert body overseeing ICESCR, the UN Committee on Economic, Social and Cultural Rights (UNCESCR), as including the provision of seven essential elements: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy (UNCESCR, 1991). These elements underpin adequate housing.

The obligation placed on states is to *take appropriate steps* to ensure the realization of the right. It is therefore a right that requires a sensitive mix of state provision, respect for autonomy and the facilitation of the flourishing of widely differently situated individuals, families and communities. This is also reinforced by Article 2(1) of ICESCR, which specifies state obligations:

<quotation>Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.</quotation>

An early commentator described Article 2(1) as so ‘convoluted’ and ‘intractable’ as to render it ‘virtually impossible to determine the precise nature of the obligations’ (Craven, 1995, p. 151).

However, as I show below, it is now clear that states have a number of hard obligations, some of which are immediate in nature; and that the scope of the right, while sufficiently elastic to allow growth and change, is also sufficiently clear that both political and legal claims may usefully be made under it.

First, states have immediate obligations to ensure that every individual enjoys each element of the right to the level of a ‘minimum core’. For instance, street homelessness clearly violates the minimum core of the right, as do forced evictions (UNCESCR, 1991, 1997), though in many respects the minimum core remains contested as a concept and difficult to apply in practice (Young, 2008). The right must immediately be ensured without discrimination (ICESCR Art 2(2)). In addition, any aspect of the right that does not impose significant resource obligations should be fulfilled without delay. This would include the repeal of discriminatory laws or a requirement for states to refrain from penalizing informal settlers.

Second, states must devote maximum available resources to the realization of the right. Resources should be conceived broadly. They include not only ‘the budget’, but other dimensions of public finance (such as monetary policy and government borrowing) and can

encompass human, technological, organizational, natural and informational resources (Elson, Balakrishnan & Heintz, 2014 p. 14).

The obligation to devote maximum available resources to the realization of the right to housing – as well as other socio-economic rights – raises considerable difficulty, both conceptually and practically. How, for instance, should a state balance competing demands – should it use its resources towards more medical equipment or more emergency housing for example? Can a state use its resources to invest in (potential) future rights fulfilment – perhaps through austerity measures, or forms of taxation – that lead to violations in the present, and if so, what level of future certainty of rights enjoyment is required? On this point, in a recent case under the ICESCR, the Spanish state’s argument that the sell-off of badly needed social housing would enhance GDP in future, and thus was a measure leading in the long run to better standards of living, was rejected (*M.D.B. v Spain*, 2017). And the question of who should have decision-making power – a court, executive or legislature – has long dogged socio-economic rights (*Mazibuko v. Johannesburg*, 2009; King, 2012). While these questions have not been answered in full, it is clear that states can adopt different strategies to fit their situations – they have a ‘margin of appreciation’ in their choice of means to fulfil the right (UNCESCR, 2007). However, they should be held closely to account for policy or budgetary decisions that are arbitrary or discriminatory in nature, or that fail to consider the disadvantaged and marginalized, the most vulnerable, and those in situations of grave risk (UNCESCR, 2007). Where there are various policy options open to the state, the state should choose a course that is the least detrimental to peoples’ rights (UNCESCR, 2007).

Third, states must make progress towards the *full realization* of the right. Limited exceptions to progressive realization include situations of natural disaster or war, as well as economic crises (UNECOSOC, 1978, para 72; UNCESCR, 2012). Still, deliberate regressive



steps constitute a prima facie violation of the ICESCR, which states have the burden of proof to discharge (UNCESCR, 1999). Thus, the right to housing in international law imposes a framework that, even when states experience the most serious crises, provides ways of monitoring and even measuring a state's compliance with the right (Heymann, McNeill & Raub, 2015). At the international level, then, the right to housing is a nuanced right, requiring a mix of state action and restraint, which allows individuals and communities autonomy but also assistance. Generally, it imposes appropriately contextual obligations on states, but is not devoid of hard content or obligations.

However, such a rosy analysis belies the housing rights violated across the world. Does the right to housing merely make 'unfulfilled promises' (Klare, 2015, p. 5) which might yet be realized? Or worse, is it a 'sheer irrelevance' (UNCHR, 1993, para. 102) to those experiencing inadequate housing, homelessness, dispossession and deprivation across the world?

International human rights are notoriously under-enforced. With few exceptions, international human rights treaties have no real 'teeth', and while they impose legal obligations, any efforts to make unwilling states deliver rely on political or other pressure: 'naming and shaming' at the international and/or domestic level. Rights cannot be penned into existence. They must be fought for on the ground, on political terrain.

Below, I consider the right to housing in two national Constitutions, which demonstrate both the importance of social movements and political struggles around the right to housing, as well as the limitations of legal victories.

## **<a>2.4<em>Key national constitutions: South Africa and India**

Arguably the most influential codifications and interpretations of the right to housing have occurred at the national level, and have in fact influenced the interpretation of the right to

housing in international law. In particular, South Africa and India provide compelling legal statements on the right to housing, supported by and demonstrating the important role of social movements in motivating legal change, and realizing the right.

#### <b>2.4.1<em>South Africa: rhetoric or realization?

The post-Apartheid South African Constitution, hailed as a ‘transformative’ document with ambitions to remedy past wrongs and achieve social justice (Klare, 1998, p. 146), includes a number of socio-economic rights, among them the right to have access to adequate housing. The Constitution makes them fully justiciable in s 38. As under the ICESCR, the South African Constitution provides that the right to housing should be progressively realized, within the framework of available resources in s 26(2).

In the celebrated *Grootboom* case of 2000, the South African Constitutional Court found the government’s housing policy was *unreasonable* because it failed to provide for the most marginalized and worst off of South Africa’s citizens. The Court held that the claimants were not entitled to any special preference in access to housing, noting that ‘hundreds of thousands (possibly millions) of South Africans’ lived in similar appalling circumstances (*Government of the Republic of South Africa v. Grootboom*, paras 80–81). However, it required the state to put in place a comprehensive policy for the progressive realization of the right to have access to adequate housing, within available resources, including due provision for the worst off. In subsequent cases, the Court has confirmed that the right to housing requires the provision of alternative accommodation in the case of forced evictions (*Residents of Joe Slovo Community v. Thubelisha Homes*, 2010), and that the reasonableness of a policy may hang on whether or not the state consulted or engaged with those to be affected by it (*Occupiers of 51 Olivia Road v. City of Johannesburg*, 2008), giving these rights a role in enhancing deliberative democracy (Fredman, 2008).

However, South Africa's right to housing also demonstrates the dangers of celebrating rights on paper. Since the end of Apartheid, poverty has remained highly racialized, inequality has increased and the spatial injustice of the Apartheid era continues (Dugard, Madlingozi & Tissington, 2015). Irene Grootboom, in whose name the ground-breaking and internationally applauded case was brought, died at the age of 44, still waiting for adequate housing (Mbazira, 2008). Waiting lists make the prospect of state-provided adequate housing seem illusory for many, while the government's readiness to bulldoze informal settlements to beautify the country for international visitors (Newton, 2009) calls into question its policy priorities for the poor and marginalized.

The failure to realize the right cannot be placed solely at the Court's door, but is an example of the fact that rights cannot be secured by a celebrated court decision alone. They must be fought for continuously by activists and rights holders. It must be the business of all branches of government to fulfil them, and private parties must respect them too. In fact, the right continues to be an important resource as social movements, non-governmental organizations, lawyers and public figures harness it as law, and as a discursive strategy (Dugard, Madlingozi & Tissington, 2015). In doing so, they make space to contest marginalization, and shine a light on injustice.

#### **2.4.2 India: the power of judicial activism and the instability of rights**

The Indian Constitution includes economic and social rights, but expressly declares these to be 'non-enforceable' (Constitution of the Republic of India, 1950, Pt IV). Nevertheless, through bold judicial activism, the Indian Supreme Court has implied a right to housing, among other rights, into the constitutional right to life. In the 1980s and early 1990s, the Supreme Court held that the right to life includes a right to livelihood, which in some situations includes a right to housing. These cases give strong procedural protections to those

living in informal settlements, and have prevented numerous slum clearances and evictions (Hohmann, 2013 pp. 108–118).

The Indian cases express a compelling justification for the right to housing. They articulate that safe, secure and adequate housing plays a role in ‘physically, mentally and intellectually’ equipping people for democratic citizenship, while homelessness ‘frustrates the very object of the constitutional animation of the right to equality, economic justice, fundamental right to residence, dignity of the person and the right to live itself’ (*Chameli Singh v State of Uttar Pradesh*, 1996 p. 556; see also *Olga Tellis v Bombay Municipal Corporation*, 1986). The judicially implied right to housing in India protects the personal and public need for living conditions that enable individuals to flourish and to contribute as citizens. These cases also illustrate the ways that housing protects and is connected to the enjoyment of a host of other rights, notably the rights to life, work, vote and equality.

The Indian example also demonstrates that rights provide an unstable discourse, which must constantly be underpinned by activism on the ground. In the 2000s, powerful middle class movements used the openness of the right to life to argue for a right to a healthy environment, which, they subsequently argued, required the eviction of slum dwellers from the cities. Informal settlers were characterized as polluters, representing a threat to human health and the environment (also see Chapter 6). A changed High Court bench agreed, and many protections that had come with a judicial recognition of the right to housing were stripped away in favour of other interests (*Almitra Patel v Union of India*, 2000; Rajamani, 2007).

The Indian and South African examples illustrate that the words in a constitution will not be determinative, and that high-profile jurisprudence may mask the underlying lack of enforcement, enjoyment and realization of the right.

## **<a>2.5<em>The agenda going forward**

In the sections below, I identify three complex phenomena with far-reaching social, economic and political implications that are stumbling blocks to the realization of the right to housing. These are privatization and deregulation, the financialization of housing and inequality. At the same time, the right to housing as a political resource and a legal standard can be used as one way to contest the privatization of public goods, challenge the financialization of housing and confront inequality.

### **<b>2.5.1<em>Privatization**

In international human rights law, the *state* holds the duty to respect, protect and fulfil human rights. Although it has duties to ensure that private actors – such as corporations or private citizens – do not violate the rights of others, it remains the primary duty bearer (Clapham, 2006). Privatization, and associated practices of deregulation and contracting out, in which governments cede operational responsibility for formerly public functions, can be a barrier to holding anyone to meaningful account. We can see these challenges playing out in the aftermath of the Grenfell Tower fire, detailed above. The web of complex relationships, ‘arm’s length’ contractual arrangements and lines of responsibility between and among national and local government, private contractors, social tenant residents, private owners of flats in the building, regulators, and public and private safety inspectors, make responsibility difficult to attribute in a legal sense. At the same time, the ways in which responsibility is diffused make startlingly visible the injustices behind austerity policies, regeneration projects and the neglect of social housing, premised on the state’s diminished responsibility for social goods and marginalized and vulnerable people (Downing, 2017; Bowie, 2017; Elliott-Cooper & Hubbard, 2017; Clifford, 2017; see more generally Honig, 2017). It is clear that people’s rights are being denied and violated, but just how and by whom, when and where?

In a situation like the Grenfell Tower fire, the line between public accountability and private unaccountability in human rights becomes both blurry and thick. It is blurry because the distinctions between what is private and what is public, and who has responsibility for what, appear fungible or amorphous. It is thick because that very amorphousness clouds and obscures where responsibility lies, but there is also the question of *why*, and for whose benefit, relationships are arranged in ways that shift the public to the private.

The Grenfell Tower fire demonstrates how far we are from a public commitment to housing as a human right, and to the provision of goods that underpin inclusion and participation in the state. Housing in the UK, while once a public good, is now under relentless pressure to be privatized. Numerous initiatives for the sale of existing housing stock are pursued, at the same time that strategies are employed to make social housing less attractive and more poorly supported (Smith, 2008).

The loss of life that June morning has also demonstrated how the right to housing can offer a response to the diffusion and obfuscation of responsibility, the lack of care taken by the state of its people. Any discussion of a human right to housing in the UK has long been lacking, but in the wake of Grenfell, the UK's Equality and Human Rights Commission launched an enquiry into the human rights failures around the fire (Equalities and Human Rights Commission, 2017). Residents and activists have mobilized to demand that housing be recognized as a right, rather than a commodity and investment opportunity (Focus E15; Justice for Grenfell), and a right to housing as a human right is becoming a rallying point for action on the domestic political agenda (Pidcock, 2017; JustFair, n.d.) where it has never gained a foothold before.

#### <b>2.5.2<em>Financialization

Housing has always had multiple functions. It has a use value as a place to live, grow and shelter. And it has an exchange value. However, in recent decades, housing's role in the broader economy has undergone a seismic shift. The house as asset is now the platform from which wealth can be generated in the global financial system (also see Chapters 3 and 4). Housing has been 'financialized', becoming 'critical' to, or even a 'central pillar of' the broader financial market itself (Rolnik & Rabinovich, 2014, pp. 62–63; Aalbers, 2008).

The financialized housing system depends on speculative trading on mortgage debts. It is where the loan against the value of the house links in to the global financial circuit that economic growth through housing can be pursued. In the world of financialized housing, the relationship between the material (the house as security) and the immaterial (the financial transaction) is fleeting. It is in the very speed and number of transactions that more value is generated (Lojkine, 1976, p. 132). In the whirl of transactions, the owner-occupier seems to disappear from view as down the barrel of a telescope held to the eye in reverse. What happens to the owner-occupier, *as a person*, appears to be irrelevant to the financial system (Sassen, 2009). This is itself a major challenge to the recognition and realization of human rights, which are an emphatically human centred approach to our social reality.

The 'global financial crisis' of the mid 2000s showcased spectacularly the inequalities at the heart of the financialized housing system, and the hidden centrality of human beings to it. 'Creative' mortgage products designed specifically for those who would normally be excluded from the mortgage market had enabled the selling of 'sub-prime' mortgages, often on highly disadvantageous terms (Rolnik & Rabinovich, 2014, pp. 68–69). Superficially, these policies appear inclusive – we can all be homeowners now – but they have the effect of 'redlining' socio-economically disadvantaged households (Rolnik & Rabinovich, 2014, p. 87; Marcuse and Madden, 2016; UNHRC, 2012).

The gulf between the financialization of housing, and housing as a human right to protect and ensure the dignity and equal moral worth of individuals and families is wide, and has led the UN Special Rapporteur on Adequate housing to remark that a financialized housing system cannot, by its nature, ensure the right to housing of individuals (UNHRC, 2012).

The financialized housing system can seem too big to tackle – governments, international financial institutions, the global banks, myself as a mortgage holder – are all implicated in it. But at the same time that financialization presents a huge obstacle, the right to housing can provide an important critique of it. First, we can use the right to housing to insist that housing is for human beings first and foremost. As the UN Special Rapporteur on Housing has noted, financialized housing has no need for an occupier, it ‘is valuable whether it is vacant or occupied, lived in or devoid of life’ (UNHRC, 2017, para. 30). Housing is ‘dehumanized’ to the point where its actual, practical use to the individuals who might live in it and build their lives outwards from it is of little concern (UNHRC 2017; Hohmann, 2018). Insisting on housing as a right can place the individual and her need for an affordable place to live in peace and security back in view, to contest the relentless financialization of housing.

### **2.5.3 Equality**

The relationship between equality and human rights has always been a thorny one, and a number of commentators continue to assert that human rights, including socio-economic rights, do not protect or lead to greater equality. Marx’s famous critique, that rights depoliticize claims for social justice, without providing either social justice or equality, continues to resonate (Marx, 1843). More recent high-profile commentators have argued that human rights are too easily harnessed into neo-liberal projects (Moyn, 2015, pp. 161–162) such as those of financialization and privatization noted above. It has been demonstrated that




human rights institutions often fail to identify and challenge the structural causes of human rights violation, or question the neoliberal and profoundly unequal system in which violations occur, touching only on symptoms (Linarelli, Salomon & Sornarajah, 2018; Marks, 2011). Certainly, we can readily admit that having more human rights on paper has not, as yet, led to greater equality, particularly globally.

For this reason, the role that human rights, specifically the right to housing, can play in contesting an unequal global order and in pushing towards social, political and economic justice, remains a major agenda which should be pursued on various fronts.

First, scholars and policy-makers (particularly in the global North/West) must be prepared to pay much greater attention to the international economic and political order. For instance, we should ask searching questions about the connections between forced and violent evictions of subsistence farmers in rural Uganda, sketched in this chapter, and neoliberal governance based on perpetual growth, itself supported by financialized housing requiring ever larger, more luxurious and unaffordable (thus always mortgaged) assets elsewhere. We should ask what sort of citizens 'global' cities are built for, and what sorts of communities are marginalized in the process (Aust, 2018; Hohmann, 2013 Chapter 8), as well as what spaces – urban and rural – are constituted for those left behind (Lemanski & Marx, 2015).

The right to housing in international law is premised on international cooperation: Article 2(1) of ICESCR states that each state party 'undertakes to take steps, individually or through international assistance and co-operation, especially economic and technical' towards achievement of the right. Article 11(1) also recognizes 'the essential importance of international co-operation based on free consent' in realizing the right to an adequate standard of living. The first UN Special Rapporteur on Housing understood that violation of the right to housing was caused by structural injustice across the globe (UNCHR, 1992).

These statements remind us that enjoyment of the right in local contexts cannot be achieved without attention to, and coordinated action around, global flows of ideas, money and people. The realization of rights requires international engagement and action because the enjoyment of comfortable living standards in some countries is achieved precisely through ongoing exploitation of people in others. Much needs to be done to overcome the exploitation of, for instance, marginalized workers (Stewart, 2012; Smith & Choudry, 2016) and colonized peoples (UNGA, 1974) that has produced and helps underpin the status quo. Finally, this remains a major agenda because the premise behind international human rights is their *universal* respect and enjoyment, and without it their promise remains hollow.

Second is the issue of gender inequality in enjoyment of the right. While much has been done on this front, including recognition of women's 'essential homelessness' – when women have no right to the home into which they are born, marry or die (UNCHR, 1995) – and on domestic violence as forced eviction and denial of the right to housing  (BucknerInniss, Hohmann & Tramontana, 2019), much still remains to be done. We should ask ourselves whether the right to housing perpetuates an ideal of the nuclear family with limiting patriarchal concepts such as the family wage. We should question whether to realize the right to housing we need fundamentally more communal work and living arrangements, which drive against the perceived individualism of human rights. These questions, which may unsettle deep societal structures, can help us move the right to housing forward.

Third, pushing the equality agenda under the banner of the right to housing should lead us to consider radical political and social agendas, from Occupy to the squatters' movement (McCleave Maharawal, 2013; Vasudevan, 2017). These movements ask us to conceive of our relationships with the state, property, and each other in profoundly different ways. What might they offer for reconceptualizing and realizing the right to housing beyond

its present limitations and the current myopia of human rights to the market and the state?

The best thinking on the right to housing must dare to think well beyond the given.

## **2.6 Conclusion**

As the remainder of the contributions in this volume make clear, the challenges facing us in realizing adequate, safe and secure housing in a deeply unequal world are enormous, and growing. The right to housing may seem an insignificant response, at worst even a distraction from the real issues and other avenues for action. It is only one resource among many – political, legal, economic – that must be pursued.

However, at its best, the right to housing provides powerful tools and principles which can guide us in this fight. First of these is the insistence that *each human person* is entitled to somewhere to live in dignity and security – a home, regardless of gender, ability to contribute to GDP, political persuasion or place of birth. And when a human right is recognized in law, the harm perpetrated against the person ceases to be an unfortunate incident of life in a difficult and unfair world, and becomes a violation of something which is due to that individual. The suffering ceases to be only a private matter and becomes the necessary concern of all persons. This is a powerfully inclusive vision. In addition, the right to housing can provide hard legal standards that can be used to hold governments to account, and to insist that they take action to prevent private parties from harming others. These standards are important, even if they do not provide solutions on their own, and must crucially be coupled with struggles on the ground, often repeated over and over and in the face of resistance and oppression. Ultimately, the power of human rights – the right to housing among them – lies in their transformative promise, which continues to exist even in the face of their non-enforcement or recognition. Human rights can be used to open spaces in which new visions of the right – and the world – can be articulated, fought for and justified. In this way, fighting

for a right to housing is worth doing, even with, or especially because of, the massive social ills we need to confront.

### <a>Notes

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2. A right to housing is also included in a number of other international and regional human rights documents. These are analysed further in Hohmann (2013), part I.

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