



Is the right to land for shelter a human right?

Synthesis of the online discussion



From **December 5th to 21st**, an [online discussion](#) was facilitated by Ekta Parishad on the [Land Portal](#) on the subject «**Is the right to land for shelter a human right?**».

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The online discussion was hosted by:





This subject was raised after the success of Jan Satyagraha, March for Justice 2012, in India, where the Indian Government signed an agreement after 10 days of non-violent protest of more than 50 000 marchers. The demands of the marchers were most of all around the right to land for the landless, but it also included a wider prospect of struggle against poverty and exclusion, demanding security and dignity for all by an allotment of a right to land for shelter for the homeless in India. As discussions are still going on with the Indian government today for the implementation of this agreement, it was interesting to get the feedback from the land portal's users on this specific aspect of the agreement, and how this could be (or not) helpful in other countries around the world.

The discussion generated exchanges from grassroots activists and policy advisors from various countries, from India to Turkey, from Australia to the Philippines. It pointed out **the necessity to come back to fundamental rights and legal, international tools** in this challenge, but also **the evident link of homelessness and landlessness, food and shelter security, in urban and rural areas.**

In the name of all the activists of Ekta Parishad we want to thank you for your helpful contributions and we hope to continue our exchange with you in our struggle for justice.

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Contributions on the legal aspects of the right to land for shelter

The whole discussion was based on the agreement signed between the marchers of Jan Satyagraha and Jairam Ramesh, Minister for Rural Development of the Indian Government, where the right to land for shelter has been asserted as a necessary answer for the people's security and dignity. In international law, the Right to Adequate Housing is part of the Covenant of Economic, Social and Cultural Rights (ESCR) and there cannot be adequate housing without a piece of land along with it. It is implicit. Similarly in the Right to an Adequate Standard of Living, which is part of the Universal Declaration of Human Rights (UPR), it implies that you have some kind of safety, security and it is suitable to climate or climatic changes. The rights to adequate housing, food and life with dignity are also found in the Charter of Indigenous Rights recognizing the importance of land within the indigenous cultures. Recently the UN has been moving towards a Right to Land as a Normative under the International Human Rights Code.

As well the Peasants Declaration for Land Rights and the Voluntary Guidelines on the Governance of Land Tenure, all converge in pressing for a right to land for the poorest section of the society.

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But does that make the right to land for shelter a human right, on a legal point of view? A long interview of Shivani Chaudhry, Associate Director of Housing and Land Rights network,

clearly asserted the right to land as a human right. She says: «First, land should be considered a right that is integrally linked to the right to live with dignity and essential for the fulfilment of several other human rights, including housing, food, health, work, water, and security. At the international and UN level too, work is being done to promote the normative development of the right to land as a human right. The right to land also brings together civil and political, and economic, social and cultural rights. The right to land could be seen as a human right in itself, because it's so intrinsically linked to the right to life and to the right to live in dignity. Land is not just a social and economic but also a cultural asset. Communities, especially indigenous peoples and forest dwellers have strong cultural and spiritual ties with land. There is thus a very strong argument for the human right to land.» Shulamith Koenig, Recipient of the 2003 UN Human Rights Award, also validates the same point of view, by quoting the Universal Declaration of Human Rights itself.

Shivani Chaudhry also insists on the very important aspect of this right when it comes to women: «Land should preferably not be jointly given, but should be registered just in the name of the woman of the household. If it's marital property, which means that the husband brings some land into the marriage, the woman's name should be added on to that at the time of marriage. But if land is allocated by the government to a family, it must be in the name of the woman. Special priority must be given to single women. For example there is a scheme of rural housing called the Indira Awas Yojana (IAY) and under that, if the government gives you money to build your house, it has to be registered in the name of the women. But so far, nobody is checking if it's implemented adequately. Thus there needs to be a monitoring committee to ensure that schemes are implemented adequately and that women are able to benefit. One of the points in the agreement with the Ministry of Rural Development is to provide land for landless persons under IAY as well, which is a positive development.» From this contribution we can get back to the idea that no right has any use if it is not turned into a law, which is properly implemented.

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Melik Özden, Director of CETIM, reminds us of the principles of the ESCR pact in his contribution, especially the article 11 which relates to agrarian reforms. He asserts that although India has ratified this pact in 1979, it has never been properly integrated to agrarian reform. He also talks about the right to shelter, without linking it directly to the right to land, but as a right recognised in various international conventions. CETIM has printed some useful [guides](#) in various languages (French, English and Spanish) on these issues.

Vijay Bharatiya, activist at Ekta Parishad and SAPA, concludes: «We had discussion at the CESC Centre in Madurai, The group here believes that every human being should have shelter and that it is a human right.(...) We believe that Right to land for shelter for the landless will give security and dignity. Especially the women and people from the marginalized communities. Both the landlessness and homelessness should be addressed jointly.»



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The link between landlessness and homelessness, food and shelter security

An activist from the Philippines made a powerful comment about the reality of the situation on the ground, describing the vicious circle of exclusion and poverty:

«Living in Manila where many families have to live in the streets, their first human right which is the right to dignity is denied... No shelter...No security - No security...No job - No job...No money - No money...No food - No food... - No school for your children...No water...No cleanliness...NOTHING...». Some articles from newspapers were also posted in the discussion to illustrate the same facts and the struggle of the poor on the ground to get their right to dignity recognised as a whole.

Shivani Chaudhry adds that although she believes that there is an essential and necessary link between food and shelter security, the signed agreement might not be enough yet to struggle efficiently against India's poverty: «But you have to remember that the agreement mentions a very small amount of land, just for 'homestead,' which is ten cents (400 square metres) per family. That's a small amount of land. I think there should be some flexibility in the size depending on the size of the family, their livelihood, their agricultural needs. Land and housing are integrally linked to livelihood. It is therefore critical that the homestead land provided is sufficient for people to continue with their livelihoods and protects their right to work along with the right to adequate housing.»

Many people also add to this argument that the right to land for shelter is the only possible tool to fight against the massive migration of the poor from rural areas to the slums around big cities in India.

A participant in the discussion gives also a point of view from Australia, explaining that there is also a big discussion around the right to land for shelter, also in urban areas, to re-organise the way society is functioning, questioning the economic system in itself by a re-shaping of the right to land and shelter. He believes that India could be an example to follow if this agreement comes to real changes in the Indian society.

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References for further information:

Agreement in various languages: www.ektaeurope.org

Publications of CETIM on shelter and food security in various languages:

http://www.cetim.ch/fr/publications_logement.php

http://www.cetim.ch/en/publications_logement.php?currentyear=&pid=

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http://www.cetim.ch/en/publications_cahiers.php#water

http://www.cetim.ch/en/publications_autodetermination.php?currentyear=&pid=

http://www.cetim.ch/en/publications_cahiers.php#poverty

Full interview of Shivani Chaudhry: <http://landportal.info/resource/documents/right-land-human-right>

On the importance of shelter in general: <http://www.ovcsupport.net/s/index.php?c=127>

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