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A Home in the City: Women's Struggle to Secure Adequate Housing in Urban Tanzania

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A Home in the City: Women's Struggle to Secure Adequate Housing in Urban Tanzania

Katherine Hughes and Elisabeth Wickeri

Abstract

This Report presents the findings of this research effort. Part I sets out the history of Tanzania's informal settlements, including an overview of the evolution that led to the current housing crisis. Part I then reviews Tanzania's obligations under international and domestic law regarding the right to adequate housing and intersecting issues. Part II documents women's struggle to obtain adequate housing in urban Tanzania. This Part first identifies the multiple barriers women face in securing and retaining housing in Tanzanian cities, including discriminatory laws and practices, deeply entrenched patriarchal attitudes, and HIV/AIDS stigma and discrimination. Part II then explores how the experience of living without adequate housing disparately impacts women's lives. Specifically, because women spend a disproportionate amount of time in informal settlements, they experience more acutely the lack of basic services that is characteristic of these poor urban areas. Moreover, female residents of informal settlements face increased exposure to gender-based violence and health risks, among other hazards. Finally, Part III examines the way forward. It begins by providing a brief overview of several Tanzanian initiatives aimed at improving informal settlements. It then offers recommendations aimed at the full realization of women's right to adequate housing.

SPECIAL REPORTS

A HOME IN THE CITY: WOMEN'S STRUGGLE TO SECURE ADEQUATE HOUSING IN URBAN TANZANIA

Katherine Hughes *

Elisabeth Wickeri **

*"[T]he right to housing does not coincide with the simple notion of having the right to a roof over one's head. 'Rather, it should be seen as the right to live somewhere in security, peace and dignity.'"*¹

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1. Giulia Paglione, *Domestic Violence and Housing Rights: A Reinterpretation of the Right to Housing*, 28 HUM. RTS Q. 120, 122 (2006) (emphasis and alterations omitted) (quoting Comm. on Econ., Social and Cultural Rights [CESCR], General Comment No. 4: The Right to Adequate Housing, 6th Sess., ¶ 7, U.N. Doc. E/C.12/1991/4 (Dec. 13, 1991), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 11, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) [hereinafter General Comment No. 4]).

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INTRODUCTION

There is little doubt that we now live in an urban world.² In less than twenty years, 60% of our global population will live in

2. In 2007, the United Nations (“UN”) reported that, “for the first time in history, the majority of the world’s people will live in cities.” U.N. Human Settlements Programme [UN-HABITAT], *State of the World’s Cities 2006/2007*, at iv (2006) [hereinafter UN-HABITAT 2006/2007]; see also MIKE DAVIS, *PLANET OF SLUMS* 1–2

cities.³ However, the United Nations ("UN") reports that, as of 2010, 827.6 million urban dwellers in developing countries lived in slums, with the global slum population expected to grow to 889 million in about a decade.⁴ While urbanization is often cited as a catalyst for economic growth and improved standards of living,⁵ for nearly a billion people it means a life lacking durable housing, sufficient living area, access to improved water, access to sanitation, or secure tenure.⁶ In short, it means that realization of the right to adequate housing might never be a reality for vast swathes of the global population. Unsurprisingly, it is now clear that women experience these deprivations disproportionately.⁷

Nowhere are the problems of rapid urbanization felt more acutely than in Africa, where urban growth rates are the highest in the world at 3.3% annually as of 2005.⁸ Such rapid change brings with it the world's largest slum population, located in sub-

(2006); CENTRE ON HOUSING RIGHTS AND EVICTIONS [COHRE], WOMEN, SLUMS AND URBANISATION: EXAMINING THE CAUSES AND CONSEQUENCES 18 (2008) (noting that, in 1975, little more than one-third of the world's population lived in cities).

3. See UN-HABITAT, *State of the World's Cities 2008/2009: Harmonious Cities*, at x (2008) [hereinafter UN-HABITAT 2008/2009].

4. See UN-HABITAT, *State of the World's Cities 2010/2011: Bridging the Urban Divide*, at xii, 32 (2010) [hereinafter UN-HABITAT 2010/2011].

5. See *id.* at 7.

6. See UN-HABITAT 2006/2007, *supra* note 2, at 21; see also UN-HABITAT 2010/11, *supra* note 4, at 33 (defining "slum household" as "one or a group of individuals living under the same roof in an urban area, lacking one or more" of the five conditions specified). In Tanzania, these areas are referred to as "informal settlements," rather than slums. This nomenclature preserves the distinction between traditional slums—"housing areas that were once respectable... but which have since deteriorated"—and informal settlements, where "[t]he quality of dwellings... varies from the simplest shack to permanent structures, while access to water, electricity, sanitation and other basic services and infrastructure is usually limited." UN-HABITAT, *The Challenge of Slums: Global Report on Human Settlements 2003*, at 9 (2003) [hereinafter *Challenge of Slums*]. More simply, "slums of despair" encompass traditional slums, i.e., declining neighborhoods, but "slums of hope" encompass "'progressing' settlements, which are characterized by new, normally self-built structures, usually illegal (e.g., squatters) that are in, or have recently been through, a process of development, consolidation and improvement." *Id.* UN-HABITAT notes that, "in the absence of appropriate interventions, slums of hope may all too easily yield to despair, a self-reinforcing condition that may be maintained for a very long time." *Id.* This Report uses the term "informal settlements" to refer to areas of urban sprawl in Tanzania where residents may be lacking one or more of the five conditions specified in the UN-HABITAT definition of a slum.

7. See, e.g., AMNESTY INT'L, INSECURITY AND INDIGNITY: WOMEN'S EXPERIENCES IN THE SLUMS OF NAIROBI, KENYA (2010); COHRE, *supra* note 2; UN-HABITAT 2010/2011, *supra* note 4, at 43; UN-HABITAT 2008/2009, *supra* note 3, at 104.

8. See UN-HABITAT 2008/2009, *supra* note 3, at 17.

Saharan Africa, at 199.5 million people or 61.7% of the urban population.⁹ While there has been some good news in efforts to improve the lives of these slum dwellers,¹⁰ cities in the region continue to grow by ten million people each year.¹¹ Approximately seven million of these people arrive or are born in informal settlements or slums, and five million of them stay there permanently.¹² For women, urban life here frequently means increased exposure to gender-based violence,¹³ health risks,¹⁴ and chronic poverty.¹⁵

Tanzania's¹⁶ urban population is growing at a rate of more than 4.5% per year,¹⁷ giving rise to even greater concern. While only 33% of the country's population currently resides in urban areas, UN-HABITAT estimates that approximately 66.4%, or 6,157,000, of those urban dwellers lived in informal settlements as of 2005.¹⁸ Recent estimates put Tanzania's informal settlement population at 80% of all urban dwellers,¹⁹ and the actual number of informal settlement residents in Tanzania is expected to double between 2007 and 2020.²⁰ More needs to be done to ensure these urban residents, especially Tanzanian women, can fully realize their right to adequate housing.

9. See UN-HABITAT 2010/2011, *supra* note 4, at 32, 42.

10. See *id.* at 33 (indicating that the living conditions of "24 million slum dwellers have improved in the last decade" in Africa, but that most of that progress has been in North Africa).

11. See *id.*

12. See *id.*

13. See, e.g., AMNESTY INT'L, *supra* note 7, at 10–16 (documenting gender-based violence in Kibera).

14. See, e.g., UN-HABITAT 2006/2007, *supra* note 2, at v, vii.

15. See, e.g., UN-HABITAT 2008/2009, *supra* note 3, at 86–88.

16. This Report addresses only mainland Tanzania and excludes Zanzibar from its analysis.

17. See *World Urbanization Prospects: The 2009 Revision Population Database*, U.N. POPULATION DIV., DEP'T ECON. & SOC. AFF., <http://esa.un.org/unpd/wup/unup/index.asp?panel=1> (last visited Apr. 5, 2011); see also UN-HABITAT 2010/2011, *supra* note 4, at 16 (noting that Tanzania's urban growth rate is more than 4% per year).

18. See UN-HABITAT 2008/2009, *supra* note 3, at 248; see also JAMES MUTERO, ACCESS TO HOUSING FINANCE IN AFRICA: EXPLORING THE ISSUES 5 (2010) (indicating that approximately "28 per cent of Tanzania's 43 million people live in urban areas").

19. See MUTERO, *supra* note 18, at 2; see also Tim Ndezi, *The Limit of Community Initiatives in Addressing Resettlement in Kurasini Ward, Tanzania*, 21 ENV'T & URBANIZATION 77, 77 (2009) (estimating that 70% of Tanzania's urban population lives in informal settlements).

20. See UN-HABITAT 2006/2007, *supra* note 2, at 23.

Despite Tanzania's commitments under international law, women continue to face uniquely gendered obstacles in their struggle to obtain adequate housing and in their everyday experience of life in informal settlements. Tanzania has signed and ratified the International Covenant on Civil and Political Rights ("ICCPR"),²¹ the International Covenant on Economic, Social and Cultural Rights ("ICESCR"),²² the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW"),²³ the African Charter on Human and Peoples' Rights,²⁴ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the last of which specifically guarantees women's right to "equal access to housing and to acceptable living conditions in a healthy environment."²⁵ Not only do Tanzanian women have the right to be free from discrimination, but Tanzania also has an obligation to ensure that women do not unduly suffer the perils of unchecked urbanization.²⁶

This Report represents the culmination of a year-long project undertaken by the Leitner Center for International Law and Justice at Fordham University School of Law to study women's access to adequate housing in urban Tanzania and their experiences of informal settlements in light of Tanzania's

21. International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20 (1978), 999 U.N.T.S. 171 [hereinafter ICCPR] (Tanzania acceded on June 11, 1976).

22. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-19 (1978), 993 U.N.T.S. 3 [hereinafter ICESCR] (Tanzania acceded on June 11, 1976).

23. Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW] (Tanzania signed on July 17, 1980 and ratified on August 29, 1985).

24. African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58 [hereinafter African Charter] (Tanzania signed on May 31, 1982, ratified on February 18, 1984 and deposited on March 9, 1984).

25. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 16, July 11, 2003, OAU Doc. CAB/LEG/66.6 [hereinafter African Protocol] (Tanzania signed on November 5, 2003, ratified on March 3, 2007, and deposited on May 7, 2007).

26. See, e.g., CESCR, General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, 42nd Sess., ¶ 8, U.N. Doc. E/C.12/GC/20 (July 2, 2009) [hereinafter General Comment No. 20] (highlighting states' duties to eradicate substantive inequality and providing as an example a state's obligation to ensure "that all individuals have equal access to adequate housing, water and sanitation" in order to help "overcome discrimination against women and girl children and persons living in informal settlements and rural areas").

international commitments. Despite national and local government efforts, both independently and via international partnerships with such entities as the World Bank and UN-HABITAT, Tanzanian women continue to fight for access to adequate housing in the face of discriminatory inheritance laws, an entrenched patriarchal culture, and pervasive domestic violence, among multiple other discriminatory practices. This battle is taking place in Tanzania's rapidly growing cities, where women disproportionately suffer the unhealthy and often dangerous consequences of informal settlements.

The Fordham delegation was led by 2009–10 Crowley Fellow in International Human Rights Katherine Hughes and Leitner Center Executive Director Elisabeth Wickeri, and included Professors James Kainen and Rachel Vorspan and seven second-year law students, Jacqueline Bevilaqua, Mari Byrne, Cristine Delaney, Maria-Elena Kolovos, Matthew Putorti, Amy Rossnagel, and Marni von Wilpert, with assistance and support from second-year law student Jesse Melman. Prior to conducting field work in Tanzania, the delegation participated in an intense program of study throughout the academic year, including a seminar led by Ms. Hughes and Ms. Wickeri focusing on human rights in Tanzania and the intersection of housing rights and women's rights. While in Tanzania, the delegation interviewed more than 500 residents of informal settlements, the majority of whom were women, in Arusha, Dar es Salaam, Dodoma, Moshi, and Morogoro. Repeated throughout the interviews were stories of and concerns about women's inability to secure adequate housing, to access basic services, and to feel safe in Tanzania's informal settlements. The delegation also interviewed community organizers, town planners, social workers, representatives of local and national government, representatives of non-governmental organizations ("NGOs") and micro-credit agencies, lawyers, academics, and many others. The delegation conducted approximately 675 interviews in all.²⁷

This Report presents the findings of this research effort. Part I sets out the history of Tanzania's informal settlements,

27. The delegation conducted interviews in Arusha, Dar es Salaam, Dodoma, Morogoro, and Moshi. See Annex II. Because of the sensitive nature of these interviews, many women requested anonymity, and the full names of many of the interviewees who contributed to this Report have been withheld.

including an overview of the evolution that led to the current housing crisis. Part I then reviews Tanzania's obligations under international and domestic law regarding the right to adequate housing and intersecting issues.

Part II documents women's struggle to obtain adequate housing in urban Tanzania. This Part first identifies the multiple barriers women face in securing and retaining housing in Tanzanian cities, including discriminatory laws and practices, deeply entrenched patriarchal attitudes, and HIV/AIDS stigma and discrimination. Part II then explores how the experience of living without adequate housing disparately impacts women's lives. Specifically, because women spend a disproportionate amount of time in informal settlements, they experience more acutely the lack of basic services that is characteristic of these poor urban areas. Moreover, female residents of informal settlements face increased exposure to gender-based violence and health risks, among other hazards.

Finally, Part III examines the way forward. It begins by providing a brief overview of several Tanzanian initiatives aimed at improving informal settlements. It then offers recommendations aimed at the full realization of women's right to adequate housing.

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Tanzania. They facilitated our access to many of the NGOs and individuals we met, welcomed us into their communities, and shared their knowledge, wisdom, and stories of advocacy and determination with us. We are deeply indebted to them.

Several other individuals graciously facilitated our work in Tanzania. In particular, we are grateful to Rose Daudi²⁸ and Kellen Mngoya of Habitat Forum Tanzania (“HAFOTA”); Boaz Ackim of Habitat for Humanity; Jennifer Chiwute of Dodoma Inter-African Committee (“DIAC”); William Raj Gali of Mkombozi; Aida Kidolezi of Nala Mkazi Savings Group; Elly Kirenga of Arusha Municipality; Grace Kisiraga of Tanzania Women Land Access Trust (“TAWLAT”); Samuel “Meck” Marick of Envirocare; Mary Massay of the Commission on Human Rights and Good Governance (“CHRAGG”); Sally Mlidi of Sahiba Sisters; Mark Msaki of the Institute of Rural Development Planning; Crispin Mugarula of Tanzania Millennium Hands Foundation; Sara Mwaga of the Anti Female Genital Mutilation Network (“AfNet”); Tumsifu Jonas Nnkya, Director of Housing in the Ministry of Lands, Housing and Human Settlements Development; Judith Odunga of Women in Law and Development in Africa (“WiLDAF”); Anna Tibaijuka, former UN Under-Secretary-General and Executive Director of UN-HABITAT; and Fatma Toufiq of Women Wake Up (“WOWAP”), as well as Catherine Matasha, Neema Munuo, Freeman Lema, and Ally Peah. For assistance during our seminar on human rights in Tanzania, we are grateful to Avril Benoît, Kathleen Brodsky, Miloon Kothari, Joe Lugalla, Jack Titsworth, and Douglass Seidman, as well as Michael Twum of Fordham Law School. We would also like to thank the numerous other government representatives, lawyers, scholars, and NGO representatives who took the time to meet with us, and especially those who worked with us to create and implement successfully a women’s rights peer-education training program during our November 2010 follow-up trip to Tanzania.

Finally, and most importantly, we thank the hundreds of women and men who met with us to share the details of their lives in Tanzania’s informal settlements. We learned from them

28. The authors acknowledge with great regret the passing of Ms. Daudi in September 2010. She provided much support and cheer as we developed our project, and she will be deeply missed.

that cities are constantly evolving and improving and, above all else, that their settlements are places of tremendous hope, ingenuity, and inspiration.²⁹

I. BACKGROUND

*"When it started, it wasn't too crowded, but it has been increasing steadily, and there are big problems: lack of water, electricity, transportation."*³⁰

A. *The Urban Millennium*³¹

1. A Statistical Overview

In 2008, UN-HABITAT famously declared that the global population had reached a tipping point—for the first time, the world's urban population outnumbered its rural population.³² By 2050, the urban population is expected to reach 70% of the global population.³³ In simpler terms, "slightly more than two people" arrive in cities every second.³⁴ Such growth presents an incredible opportunity for poverty reduction and international development, as economists recognize that a country's level of urbanization is "an apt indicator of its wealth."³⁵ However, without effective policymaking and management, this transformation is likely to result in extreme or worsening poverty

29. As one government official put it, "Even where there is chaos, there is an order." Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous., and Human Settlements Dev., in Dar es Salaam, Tanz. (May 26, 2010).

30. Interview with Flora Masoy, Coordinator, Morogoro Paralegal Centre [MPLC], in Morogoro, Tanz. (May 17, 2010).

31. See UN-HABITAT 2006/2007, *supra* note 2, at iii (Former UN Under-Secretary-General and Executive Director of UN-HABITAT Anna Tibaijuka declared 2007 to be the dawn of the urban millennium, noting that almost one-third of the world's urban population lived in slums at that time, "most of them without access to decent housing or basic services and where disease, illiteracy and crime are rampant"). This Report acknowledges the challenges in obtaining accurate population and growth statistics in urban areas. See Barney Cohen, *Urban Growth in Developing Countries: A Review of Current Trends and a Caution Regarding Existing Forecasts*, 32 WORLD DEV. 23, 25–27 (2004).

32. See UN-HABITAT 2008/2009, *supra* note 3, at 11 (revising earlier predictions that this shift would occur in 2007); see also DAVIS, *supra* note 2, at 1; UN-HABITAT 2006/2007, *supra* note 2, at iv.

33. See UN-HABITAT 2008/2009, *supra* note 3, at 11.

34. See *id.*

35. UN-HABITAT 2010/2011, *supra* note 4, at 5.

and inadequate living conditions for an enormous number of people.³⁶

Urbanization is occurring fastest in the developing world.³⁷ Over the last two decades, the developing world population has grown by an average of three million people per week.³⁸ The cities of the developing world are expected to double in size by 2030, and 75% of that growth is expected to take place in smaller cities with populations of one to five million or in cities with under 500,000 people.³⁹ Of course, urbanization and urban growth rates vary widely by region, by country, and even within countries; however, it is now clear that the developing world's cities must be expected to absorb 95% of the world's urban population growth over the next forty years.⁴⁰ According to the UN, there has been "little or no planning to accommodate these people or provide them with services."⁴¹

The problem is especially acute in Africa, where "almost all of the current urban spatial growth is the result of slum and informal settlements proliferation"⁴² and urbanization rates are the highest in the world.⁴³ On the whole, only 38% of the continent's population is currently considered urbanized; however, analysts predict these high growth rates to continue for several decades.⁴⁴ Africa's slum growth rates from 1990 to 2000 are illustrative of the human rights crisis that is brewing: during that period, slums grew at a rate of 4.53%, while urbanization occurred at 4.58%.⁴⁵ Thus, nearly every person born into or migrating to a city in Africa during the 1990s lived in a slum. Grappling with problems such as lack of political will, lack of transparent governance, ineffective decentralization programs,

36. *See id.* at 7.

37. *See* UN-HABITAT 2008/2009, *supra* note 3, at 15 (indicating that nearly all population growth over the next forty years will occur in urban areas of the developing world, with the total urban population in those areas reaching 5.3 billion in the year 2050). Urban growth in the developing world, in absolute numbers, is ten times greater than the rate for cities in the global North. *Id.* at 11.

38. *See id.* at 15.

39. *See Challenge of Slums*, *supra* note 6, at 3.

40. *See* UN-HABITAT 2008/2009, *supra* note 3, at 15.

41. *Challenge of Slums*, *supra* note 6, at 3.

42. UN-HABITAT, *The State of African Cities 2008: A Framework for Addressing Urban Challenges in Africa*, at ix [hereinafter *State of African Cities*].

43. *See* UN-HABITAT 2008/2009, *supra* note 3, at 17.

44. *See id.*

45. *See id.* at 19.

and insufficient infrastructure,⁴⁶ as well as continued global economic marginalization,⁴⁷ Africa will likely continue to struggle with these massive population changes and to ensure that basic human needs are met among growing urban populations.

The numbers for sub-Saharan Africa and East Africa tell a similar story. By 2050, sub-Saharan Africa's urban population is expected to reach 60.1%, more than doubling its 1990 urban population percentage.⁴⁸ In East Africa, the urban population will climb from 77 million in 2010 to 337.5 million in 2050.⁴⁹ While East Africa is still predominantly rural and will remain so for some time,⁵⁰ the region is expected to experience total and urban growth rates higher than the African average for the foreseeable future.⁵¹

Unfortunately, East Africa's rapid urbanization is due to a "widespread poverty-driven economic survival strategy," rather than severely needed economic expansion.⁵² However, "with urban populations growing faster than the urban economies, the wisdom of seeking economic survival in the largest cities has become doubtful."⁵³ Stress on urban housing supplies can only be expected to deepen further amid "systemic institutional failures that perpetuate social exclusion and inequalities between the urban poor and rich."⁵⁴

At first glance, Tanzania's statistics seem slightly more heartening. The nation's urban growth rate has been declining since its peak of 10.22% in the early 1970s, and its economy has been expanding rapidly.⁵⁵ However, urban growth rates in Tanzania, which are pegged at a rate of 3% to 5% over the next

46. See *State of African Cities*, *supra* note 42, at ix.

47. See Cohen, *supra* note 31, at 46.

48. See U.N. POPULATION DIV., *supra* note 17; see also UN-HABITAT 2010/2011, *supra* note 4, at 12 (Table 1.1.1).

49. See U.N. POPULATION DIV., *supra* note 17.

50. See UN-HABITAT 2010/2011, *supra* note 4, at 12 (Table 1.1.1) (indicating that East Africa's urban population is 23.7% in 2010, and is expected to grow to 47.6% by 2050).

51. See *State of African Cities*, *supra* note 42, at 103.

52. See *id.* at 106; see also *infra* Part II.A.3 (discussing the gendered nature of urban poverty).

53. *State of African Cities*, *supra* note 42, at 106.

54. *Id.* at 14 (emphasis omitted).

55. See U.N. POPULATION DIV., *supra* note 17; see also UN-HABITAT 2008/2009, *supra* note 3, at 71–72.

forty years, continue to outpace the global average.⁵⁶ Dar es Salaam, Tanzania's commercial capital and primate city,⁵⁷ is one of the world's ten fastest-growing large cities.⁵⁸ Already failing to deliver housing and basic services to its urban poor,⁵⁹ the Tanzanian government will likely be unable to catch up in the coming decades. Recent presidential and parliamentary elections provide a fresh opportunity for government to address these growing problems directly and immediately.⁶⁰

2. Women's Role in Urbanization

Urban populations increase primarily for three reasons: (1) the expansion and redrawing of city boundaries; (2) natural growth; and (3) rural-to-urban migration.⁶¹ The UN estimates that natural growth now accounts for approximately 60% of urban growth.⁶² Despite these trends, rural-to-urban migration is still a major contributor to urbanization, and women are, in effect, becoming the newest migrants. In fact, "about half of international and national migrants globally are women."⁶³ Where once it was their husbands who moved to cities for economic opportunities, women are increasingly moving to cities on their own as principal wage earners.⁶⁴ Certainly, economics

56. See U.N. POPULATION DIV., *supra* note 17 (showing global average growth rates).

57. Urban primacy is common in Africa, which means that urbanization occurs in the single largest city of a country because of high concentration of resources and investments in that city; this differs from urbanization in other parts of the world, where states usually have multiple large cities. See UN-HABITAT 2008/2009, *supra* note 3, at 17–18.

58. See *State of African Cities*, *supra* note 42, at 26.

59. See *id.* at 106, 130 (noting that 84.2% of urban Tanzanians live in slums).

60. See Jeffrey Gettleman, *Incumbent Wins Spirited Election in Tanzania*, N.Y. TIMES, Nov. 6, 2010, at A9.

61. See Cohen, *supra* note 31, at 32.

62. See UN-HABITAT 2008/2009, *supra* note 3, at 24. Tanzania's fertility rate of 4.51% is slightly lower than the African average of 4.71%. See *State of African Cities*, *supra* note 42, at 103. However, the percentage of its population in the fifteen to twenty-four age group is increasing, and natural growth is also expected to fuel its urbanization rates in the coming decades. See *id.* at 105, 107.

63. COHRE, *supra* note 2, at 10; see Emmanuel Offei Akrofi, *Urbanisation and the Urban Poor in Africa* 7 (Mar. 2006), http://www.fig.net/pub/accra/papers/ts18/ts18_05_akrofi.pdf (Ghana).

64. See COHRE, *supra* note 2, at 10; see also WOODROW WILSON INT'L CTR. FOR SCHOLARS, GLOBAL URBAN POVERTY: SETTING THE AGENDA 15–16 (Allison M. Garland et al. eds., 2007).

play a major role in women's decisions to move to urban areas;⁶⁵ however, women are also confronted with a plethora of gender-based discriminatory practices and attitudes that contribute to their decision to migrate.⁶⁶

Ultimately, whether they are born into urban areas or migrate there for various reasons (and then eventually contribute to natural growth), women face exceptional challenges in urban settlements.⁶⁷ On one side of this equation, women migrate from rural areas to escape gender-specific human rights abuses, including domestic violence, harmful cultural practices, HIV/AIDS discrimination, and discriminatory inheritance laws, as demonstrated in the delegation's findings in Part II.A. On the other side, women living in urban slums or settlements find it difficult to afford adequate housing or access basic public services and are subject to multiple forms of gender-based violence, among other human rights violations, as documented in Part II.B. Ultimately, "governments have a duty to address fundamental violations of human rights—in this case, of women's human rights—which, at times underlie migration in the first place and which similarly prohibit women from realizing the full range of their human rights within the urban context."⁶⁸

3. The Historical Context of Tanzania's Urban Landscape

a. The Colonial Era

A brief examination of Tanzanian history illustrates that Tanzania's current urban growth, and attendant housing crisis, is closely linked to the nation's colonial past. Originally a German colony, Tanganyika (essentially today's mainland Tanzania) became a League of Nations mandate and later a trusteeship under British control after World War I until the nation's successful bid for independence in 1961.⁶⁹ Administrative and economic policies implemented pre-independence triggered the beginnings of migration from the countryside to new economic

65. See AMNESTY INT'L, *supra* note 7, at 8.

66. See COHRE, *supra* note 2, at 29–42.

67. See *id.* at 11–12.

68. *Id.* at 15.

69. See *Timeline: Tanzania*, BBC NEWS, http://news.bbc.co.uk/2/hi/africa/country_profiles/1072386.stm (last updated Jan. 13, 2011).

and administrative centers, laying the foundation for an urban housing shortage.

Both German and British economic policy, which used the Tanzanian colony as a source for the production of raw materials, encouraged the agricultural production of cash crops as well as the establishment of large plantations worked by local wage laborers.⁷⁰ Indigenous "support" for this economic model was created by the imposition of taxes, for the first time in 1897, which Africans sought to pay either through producing cash crops or by migrating to plantations to work for wages.⁷¹ This migration to European-owned plantations not only disrupted the traditional agricultural model, but also necessitated the creation of export centers, serviced by transportation networks.⁷² However, despite African migration to towns, urban growth remained limited due to British restrictions on the movement of the indigenous populace to urban centers, such as the Colonial Labor Utilization Ordinance of 1923.⁷³

The slow speed of rural-to-urban migration notwithstanding, urban planning was instituted on the principle of segregating the European, Asian, and African populations from each other.⁷⁴ The African zone consisted of high-density, unplanned settlements often lacking piped water, electricity, sewage, hospitals, or schools, and was usually outside the city center.⁷⁵ As this zone grew in population, poorer Africans settled farther and farther outside the city.⁷⁶ Although no longer explicitly segregating by race, the colonial era policy of designating residential areas by density, and as such providing resources and services in that fashion, has carried through to the present.⁷⁷

70. See JOE LUGALLA, *CRISIS, URBANIZATION, AND URBAN POVERTY IN TANZANIA: A STUDY OF URBAN POVERTY AND SURVIVAL POLITICS* 1 (1995).

71. See *id.* at 2.

72. See *id.* at 10–22.

73. See *id.* at 8, 11.

74. See MILTON MAKONGORO MAHANGA, *URBAN HOUSING AND POVERTY ALLEVIATION IN TANZANIA* 91 (Bernhard J. Sanyagi ed., 2002); see also LUGALLA, *supra* note 70, at 15. The European zone, or *Uzunguni*, consisted of modern suburbs, with housing built on low-density plots and serviced with electricity and sewage and water systems (not to mention golf courses). See LUGALLA, *supra* note 70, at 14. The Asian zone, or *Uhindini*, consisted of medium-density housing and often was the center of commerce. See *id.*

75. See LUGALLA, *supra* note 70, at 14–15.

76. See *id.* at 15.

77. See *id.* at 38–39.

b. A Post-Independence Urban Revolution

Almost immediately following independence, the government abolished all laws that restricted African migration to cities.⁷⁸ The change, coupled with investment in industry and government, resulted in a sharp influx of Tanzanians from rural to urban areas, mainly Dar es Salaam.⁷⁹ The lack of restrictions on movement meant that families could now join working adults—mainly men—in cities.⁸⁰ Over the next several years, rural stagnation and advances in education encouraged rural to urban migratory patterns.⁸¹ This migration, along with increased natural growth rates due to longer life expectancy and decreased infant mortality, accounted for rapid growth.⁸² In fact, Dar es Salaam's growth rate hit a staggering 11% in the years just after independence.⁸³

To meet urban needs, the government “gave top priority to the development and provision of housing.”⁸⁴ Keeping with the colonial policy of state ownership of land in trust, the government first nationalized all land, with title vested in the president⁸⁵ and required previous owners to pay rent.⁸⁶ In recognition of the growing housing shortage,⁸⁷ the government established the National Housing Corporation (“NHC”)⁸⁸ with the goal of “providing and facilitating the provision of houses and other buildings” through construction projects or the issuance of loans.⁸⁹ The government also instituted additional

78. *See id.* at 27.

79. *See id.*

80. *See* Larry Sawers, *Urban Primacy in Tanzania*, 37 *ECON. DEV. & CULTURAL CHANGE* 841, 844 (1989).

81. *See* LUGALLA, *supra* note 70, at 23–25.

82. *See id.* at 22–23.

83. *See* Sawers, *supra* note 80, at 844.

84. MAHANGA, *supra* note 74, at 94. *See generally* Jenny Cadstedt, *Private Rental Housing in Tanzania—A Private Matter?*, 34 *HABITAT INT'L* 46, 47–49 (2010) (providing a historical overview of the evolution of Tanzania's housing policy).

85. *See* Emma Josefsson & Pia Åberg, *An Evaluation of the Land Laws in Tanzania 5* (2005) (unpublished M.Sc. dissertation, Lulea University of Technology), *available at* <http://epubl.luth.se/1404-5508/2005/057/LTU-SHU-EX-05057-SE.pdf>.

86. *See* LUGALLA, *supra* note 70, at 27.

87. The first five-year development plan of 1964–69 recognized a 58% shortage in housing supply. MAHANGA, *supra* note 74, at 94. By 1969 there were already at least 14,720 squatter houses in urban centers. LUGALLA, *supra* note 70, at 43.

88. *See* National Housing Corporation Act, No. 45 (1962), Cap. 481 § 3 (Tanz.).

89. *See* MAHANGA, *supra* note 74, at 95.

building and loan projects in subsequent decades; however, most were unsuccessful due to a failure to meet need⁹⁰ and continuing classification of neighborhoods by density, resulting in ongoing neglect of high-density areas.⁹¹

In its second decade of independence, Tanzania entered a period of “aided self-help” with respect to the urban housing crisis,⁹² in which the problems associated with housing inequality would only be addressed “if as many town dwellers as possible took to themselves . . . to provide housing with only a minimum of necessary assistance from the state.”⁹³ Throughout this period, the government attempted to increase housing stock through largely unsuccessful nationalization and lending policies, including the Acquisition of Buildings Act⁹⁴ and the now-defunct Tanzanian Housing Bank.⁹⁵ The government also tried to stem the growing primacy of Dar es Salaam; however, these efforts

90. Much of the housing in this period was built to replace structures removed during a government-sponsored slum clearance program. Therefore, while the National Housing Corporation built 8272 units between 1962 and 1970, this fell short of the planned 25,800 and, when accounting for the number of houses demolished, only amounted to approximately 400 new houses per year. *Id.* Recognizing its scant benefits, the government officially abandoned the slum clearance project by the early 1970s. *See* LUGALLA, *supra* note 70, at 54.

91. This system had the effect of differentiating residential areas on the basis of class, in place of colonial differentiation by race. *See* LUGALLA, *supra* note 70, at 69–70 (discussing the provision of public services based on a classification scale ranging from low-density (wealthiest planned settlements), to medium- and high-density (poorer planned settlements), to spontaneous, or overcrowded (poorest and unplanned settlements)); *see also* Fred S. Lerise, *Urban Governance and Urban Planning in Tanzania*, in *URBANISING TANZANIA: ISSUES, INITIATIVES AND PRIORITIES* 88, 99–101 (Suleiman Ngware & J.M. Lusagga Kironde eds., 2000) (discussing the highly centralized and bureaucratic nature of urban planning in Tanzania).

92. J.M. Lusugga Kironde, *Rapid Urbanization in Tanzania: The Government's Coping Strategies*, in *URBANIZING TANZANIA: ISSUES, INITIATIVES, AND PRIORITIES*, *supra* note 91, at 22, 23–25.

93. LUGALLA, *supra* note 70, at 52 (citation omitted).

94. Acquisition of Buildings Act, No. 13 (1971) (Tanz.). The Acquisition and Buildings Act nationalized all rented buildings worth at least TSh. 100,000. *See id.*; LUGALLA, *supra* note 70, at 52.

95. The Tanzanian Housing Bank (“THB”) was established in 1972 to support housing development through the provision of loans. *See* MAHANGA, *supra* note 74, at 94. However, its significant lending requirements, complicated lending procedures, and a corrupt bureaucracy spelled its demise in 1995, leaving Tanzania without a housing finance system. *See* LUGALLA, *supra* note 70, at 53, 58–59; MUTERO, *supra* note 18, at 9, 15.

failed⁹⁶ and may actually have harmed the urban poor by diverting scarce financial state resources.⁹⁷ Finally, the government's largely unsuccessful attempt to move the capital from Dar es Salaam to Dodoma, together with the inception of the Dodoma Master Plan, further exemplifies the government's inability to diffuse urbanization.⁹⁸

During the late 1970s, Tanzania, like many African countries, sought aid and advice from the World Bank and International Monetary Fund.⁹⁹ The government's previous policies had benefited mostly the middle and upper classes, while its housing construction plans had been unable to meet the demands of rapid urbanization, particularly with regard to the urban poor.¹⁰⁰ By the mid-seventies, 44% of the population of Dar es Salaam was squatters.¹⁰¹ Therefore, as part of a structural adjustment program recommended in 1982, Tanzania was urged to reform its land policy, particularly with an eye toward

96. For example, Operation *Kila Mtu Afanye kazi* ("Every able bodied person has to work") of 1976 required unemployed residents of Dar es Salaam to return to their rural villages. See Kironde, *supra* note 92, at 26; Sawers, *supra* note 80, at 849 (explaining how this policy may actually have drained the nation of valuable resources). More famously, the government's socialist collective program, *Ujamaa vijijini*, resettled rural populations in village collectives during the 1970s. See Bonny Ibhawoh & J.I. Dibua, *Deconstructing Ujamaa: The Legacy of Julius Nyerere in the Quest for Social and Economic Development in Africa*, 8 AFR. J. POL. SCI. 59, 67-68 (2003) (S. Afr.) (explaining how villagization may have sapped valuable government resources, as people took government aid without increasing labor).

97. See Sawers, *supra* note 80, at 855; see also *id.* at 845-47 (explaining how growth pole centers and regional price leveling created less efficient industry and encouraged migration to Dar es Salaam).

98. The Master Plan, drawn up by the same Canadian consulting firm that designed Dar es Salaam's 1968 Plan, reflects the old colonial segregated housing policies by adopting class-based districting while imposing a Western style of building and requiring a variety of documentation and permits in order to build. See LUGALLA, *supra* note 70, at 37.

99. See Joe L.P. Lugalla, *Economic Reforms and Health Conditions of the Urban Poor in Tanzania*, 1 AFR. STUD. Q. 19, 20 (1997).

100. See Kironde, *supra* note 92, at 30-32. Since the wealthy were in the best position to take advantage of the government's various lending programs, they also had incentive to invest and build, which in turn had the effect of driving up rent for the poor. See LUGALLA, *supra* note 70, at 58-59, 62-63. Government attempts at regulating landlord-tenant relationships, such as the 1984 Rent Restriction Act, were largely ineffective as they contained many loopholes and were largely ignored. See *id.* at 71; Kironde, *supra* note 92, at 37.

101. See LUGALLA, *supra* note 70, at 43.

establishing a healthy market economy.¹⁰² In response, the government solicited what became known as the “Shivji Report,”¹⁰³ which recommended decentralization of land matters and divestment of root title from the president to villages,¹⁰⁴ and “generated a vigorous debate over land and gender issues.”¹⁰⁵

In 1995, the Ministry of Lands and Human Settlements Development promulgated the National Land Policy (“Policy”),¹⁰⁶ in which it supported the status quo of maintaining derivative land rights.¹⁰⁷ Its treatment of land rights and gender was slightly more in line with Professor Shivji’s recommendations. The Policy states that, “[i]n order to enhance and guarantee women’s access to land and security of tenure, Women will be entitled to acquire land in their own right not only through purchase but also through allocations.”¹⁰⁸ However, the text also indicates that “inheritance of clan land will continue to be governed by custom and tradition provided such custom and tradition is not contrary to the Constitution and is not repugnant to principles of natural justice.”¹⁰⁹ Further, “[o]wnership of land between husband and wife shall not be the subject of legislation.”¹¹⁰ While it may be argued that the caveat

102. See Ambreena Manji, *Gender and the Politics of the Land Reform Process in Tanzania*, 36 J. MOD. AFR. STUD. 645, 647–49 (1998) (U.K.).

103. In response to external pressure from the World Bank and the International Monetary Fund (“IMF”), as well as internal pressures from the populace that had been suffering as a result of the previous land policies, in 1991 the government appointed a commission to investigate issues surrounding land ownership: the Presidential Commission of Inquiry into Land Matters (the Shivji Commission), headed by Professor Issa Shivji. See *id.* at 647.

104. See LIZ ALDEN WILY & SUE MBAYA, *LAND, PEOPLE AND FORESTS IN EASTERN AND SOUTHERN AFRICA AT THE BEGINNING OF THE 21ST CENTURY: THE IMPACT OF LAND RELATIONS ON THE ROLE OF COMMUNITIES IN FOREST FUTURE* 279 (2001).

105. See BAHATI MLOLE, MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT, *LAND POLICY CHALLENGES FOR POLICY MAKERS* 4, available at <http://www.fes-tanzania.org/doc/wr-land-policy.pdf> (Tanz.).

106. MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT, *NATIONAL LAND POLICY* (2d ed. 1997) (Tanz.) [hereinafter *NATIONAL LAND POLICY*]; see also Ernest Mallya, *Women NGOs and the Policy Process in Tanzania: The Case of the Land Act of 1999*, 26 AFR. STUD. MONOGRAPHS 183, 190 (2005) (Japan) (discussing criticism of the policy as representing “top down policy-making”).

107. See *NATIONAL LAND POLICY*, *supra* note 106, at 3.

108. *Id.* at 12.

109. *Id.*

110. *Id.* The author of the section on women’s rights in the National Land Policy claims that the last two qualifying sentences were added via amendments after the National Assembly had already approved of the draft. See Manji, *supra* note 102, at 659.

regarding the constitution and “principles of natural justice” guards against gender discrimination under customary law, the clause shielding land ownership between husband and wife from legislation undercuts that argument.

Despite its shortcomings, the 1995 National Land Policy paved the way for various innovations later codified in the 1999 Land Acts.¹¹¹ First, by addressing gender at all, the Policy opened the door for a wider debate on the status of women and also ensured that the issue was addressed in the new Acts.¹¹² Second, the Policy placed importance on the equitable distribution of and access to land for all citizens and the need to decentralize the offices of land registration and administration.¹¹³ Third, while lacking in concrete recommendations, the Policy recognized the need for a coherent plan to deal with increasing urbanization and informal settlements.¹¹⁴ Finally, it emphasized the need to create superior methods and institutions of conflict resolution for land disputes, especially in rural areas.¹¹⁵

B. *Tanzania's Legal Obligations with Respect to Women and Adequate Housing*

1. International Law

Since becoming a UN member state on October 24, 1945, Tanzania has been an active player in the international system and is now party to six¹¹⁶ of the eight core international human rights treaties currently in force, including the International Covenant on Economic, Social and Cultural Rights and the

111. See *infra* Part 1.B.2.c.

112. See Mallya, *supra* note 106, at 190.

113. See MLOLE, *supra* note 105, at 5.

114. See NATIONAL LAND POLICY, *supra* note 106, at 25–33.

115. See *id.* at 40–41.

116. Convention on the Rights of Persons with Disabilities and Optional Protocol, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. No. 49, U.N. Doc. A/61/49, at 65 (Dec. 27, 2009); Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; CEDAW, *supra* note 23; ICCPR, *supra* note 21; ICESCR, *supra* note 22; International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195. In addition, Tanzania is also a party to the CEDAW Optional Protocol, Oct. 15, 1999, 2131 U.N.T.S. 83; the Optional Protocol on the Involvement of Children in Armed Conflict, May 25, 2000, 2173 U.N.T.S. 222; and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Jan. 18, 2000, 2171 U.N.T.S. 227.

Convention on the Elimination of All Forms of Discrimination against Women. It is also a party to the African Charter on Human and Peoples' Rights,¹¹⁷ as well as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.¹¹⁸ These binding international documents include strong protections for the right to adequate housing and related rights affecting women living in informal settlements. This Section provides an overview of these international instruments, Tanzania's related legal obligations, and the content of the right to housing.

a. Legal Obligations under the ICESCR

The Universal Declaration of Human Rights affirms generally that everyone has the right to adequate housing,¹¹⁹ however, the principal treaty codifying and articulating the right to housing is the ICESCR.¹²⁰ Specific housing rights protections are also included in numerous other international covenants, including CEDAW¹²¹ and regional documents.¹²²

Under Article 11, the ICESCR recognizes "the right of everyone to an adequate standard of living . . . , including adequate food, clothing and housing."¹²³ As a state party to the ICESCR, Tanzania is obligated "to take steps, . . . to the maximum of its available resources, with a view to achieving progressively the full realization of the rights" using all appropriate means.¹²⁴ When it comes to understanding "maximum available resources," Tanzania may consider the interpretation of the phrase by the ICESCR's treaty-monitoring body, the Committee on Economic, Social and Cultural Rights ("ESC Committee"), to include "resources existing within a State and those available from the international community."¹²⁵

117. See African Charter, *supra* note 24.

118. See African Protocol, *supra* note 25.

119. See Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), art. 25 (Dec. 10, 1948) [hereinafter UDHR].

120. See ICESCR, *supra* note 22, art. 11(1).

121. See CEDAW, *supra* note 23, art. 14(2)(h).

122. See, e.g., African Protocol, *supra* note 25, art. 16.

123. ICESCR, *supra* note 22, art. 11(1).

124. *Id.* art. 2.

125. See CESCR, General Comment No. 3: The Nature of States Parties' Obligations, 5th Sess., ¶ 13, U.N. Doc. E/1991/23 (Dec. 14, 1990), *reprinted in*

This language, contrasting sharply with the direct implementation provision of the International Covenant on Civil and Political Rights,¹²⁶ acknowledges that resource limitations can impose constraints on implementation. This distinction, however, should not be interpreted to mean that the rights in the ICESCR are any less important or should be any less a priority than those enshrined in the ICCPR. International law and related analyses have repeatedly affirmed that socio-economic rights and civil and political rights are equal and interrelated, and must be treated in that manner.¹²⁷

In addition to their progressive obligations, states that are parties to the ICESCR have obligations of immediate and continuous effect. These obligations require states (1) to ensure that the rights enshrined in the ICESCR can be exercised without discrimination, and (2) to "take steps" towards progressive realization¹²⁸ of the rights by "all appropriate means."¹²⁹ Such steps must be taken soon after the covenant's entry into force,¹³⁰ and the obligation is one of continuous effect: Tanzania must "move as expeditiously and effectively as possible" toward full realization of the rights.¹³¹ Passing legislation alone does not exhaust a state party's obligations,¹³² and the framework recognizes that implementation strategies and methods may vary

Compilation of General Comments and General Recommendations, *supra* note 1, at 7 [hereinafter General Comment No. 3].

126. See ICCPR, *supra* note 21, art. 2(1) ("Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant.").

127. See, e.g., World Conference on Human Rights, June 14–25, 1993, *Vienna Declaration and Programme of Action*, ¶ 5, U.N. Doc. A/CONF.157/24 (July 12, 1993) ("All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis."); CESCR, Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, ¶ 4, U.N. Doc. E/C.12/2000/13 (Jan. 22–26, 1997), *reprinted in* 20 HUM. RTS. Q. 691, 692 (1998) ("It is now undisputed that all human rights are indivisible, interdependent, interrelated and of equal importance for human dignity. Therefore, states are as responsible for violations of economic, social and cultural rights as they are for violations of civil and political rights.").

128. General Comment No. 3, *supra* note 125, ¶ 2.

129. ICESCR, *supra* note 22, art. 2.

130. See General Comment No. 3, *supra* note 125, ¶ 2.

131. *Id.* ¶ 9.

132. See *id.* ¶ 4.

from context to context.¹³³ Flexibility aside, states are required to identify means that will produce results.¹³⁴

Finally, the ESC Committee has stated that there is also a “minimum core” obligation on states to “ensure the satisfaction of, at the very least, minimum essential levels of each of the rights” in the ICESCR.¹³⁵ In the context of housing, for example, any state where a significant number of people are deprived of “basic shelter and housing . . . is, *prima facie*, failing to discharge its obligations under the Covenant.”¹³⁶ Therefore, although Tanzania is a developing country, it does have immediate obligations with respect to the right to housing and related socio-economic rights.

b. A Holistic Right to Housing

The ESC Committee has clarified the ICESCR’s Article 11 general housing rights provision in its General Comments.¹³⁷ General Comment 4 delineates the contours of the affirmative right to housing,¹³⁸ taking an expansive view and insisting that it should not be viewed as “provided by merely having a roof over one’s head.”¹³⁹ The Comment then offers a non-exhaustive list of factors that are relevant when considering the satisfaction of the right to adequate housing under the covenant: (1) legal security of tenure, (2) availability of services, (3) affordability, (4)

133. See CESCR, General Comment No. 9: The Domestic Application of the Covenant, ¶ 1, U.N. Doc. 1E/C.12/1998/24 (Dec. 3, 1998), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, at 47 [hereinafter General Comment No. 9].

134. See *id.* ¶ 5.

135. General Comment No. 3, *supra* note 125, ¶ 10.

136. *Id.*

137. See ICESCR, *supra* note 22, art. 11(1). The Committee on Economic, Social, and Cultural Rights adopted General Comments to make available to all states parties the experience of report examination, to promote the implementation of the covenant, to draw attention to the insufficiencies in reporting and suggest improvements in reporting procedures, and to “stimulate the activities” of states parties and other actors to effectively realize the rights in the covenant. See CESCR, *Report on Its 20th & 21st Sess.*, Apr. 26–May 14, 1999, ¶ 51, U.N. Doc. E/2000/22 (2000). The General Comments, while not *per se* binding, do have considerable legal weight and tend to shape the practice of states in applying the covenant. See MATTHEW C.R. CRAVEN, *THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS: A PERSPECTIVE ON ITS DEVELOPMENT* 91–92 (1995) (citing THEODOR MERON, *HUMAN RIGHTS LAW-MAKING IN THE UNITED NATIONS* 10 (1986)).

138. See, e.g., General Comment No. 4, *supra* note 1, ¶ 9.

139. *Id.* ¶ 7.

habitability, (5) accessibility, (6) location, and (7) cultural adequacy.¹⁴⁰ Moreover, the Special Rapporteur on the Right to Adequate Housing¹⁴¹ has subscribed to the ESC Committee's interpretation of the right to adequate housing¹⁴² and has identified seven additional elements that contribute to a deeper understanding of it. These include (1) physical security and privacy, (2) safe environment, (3) resettlement, (4) participation in decision making, (5) information, (6) freedom from dispossession, and (7) environmental goods and services.¹⁴³ General Comment 7 then examines in more detail the specific problem posed by forced evictions as a *prima facie* violation of the right to housing.¹⁴⁴ These general comments, together with expository sources of law, including the work of the special rapporteur, demonstrate that housing cannot be viewed in isolation from other rights in the international framework.¹⁴⁵

In addition, the ESC Committee and the special rapporteur have emphasized especially that security of tenure is a key component of the right to housing, thus highlighting the special challenges faced by those who have been forcibly evicted from their homes. 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

140. *Id.* ¶ 8.

141. Miloon Kothari served as Special Rapporteur on the Right to Adequate Housing from 2000 to 2008; Raquel Rolnik assumed the role on May 1, 2008. *See* Press Release, Office of the High Comm'r for Hum. Rts., Newly-Appointed Special Rapporteur on the Right to Adequate Housing to Assume Functions on 1 May 2008 (Apr. 30, 2008), *available at* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9114&LangID=E>.

142. *See* Special Rapporteur on the Right to Adequate Housing, *Rep. of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context*, Hum. Rts. Council, ¶ 5, U.N. Doc. A/HRC/7/16 (Feb. 13, 2008) (by Miloon Kothari).

143. *Id.* ¶ 6.

144. *See* CESCR, General Comment No. 7: The Right to Adequate Housing: Forced Evictions, ¶ 1, U.N. Doc. E/1998/22 (May 20, 1997), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, at 38, [hereinafter General Comment No. 7].

145. *See* General Comment No. 4, *supra* note 1, ¶ 9. For example, and of particular relevance to women living in informal settlements, full realization of the right to housing cannot be achieved without the right to water and the right to sanitation. *See* Special Rapporteur on the Right to Adequate Housing, *Rep. of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, Comm'n on Hum. Rts., ¶ 56, E/CN.4/2002/59 (Mar. 1, 2002) (by Miloon Kothari).

they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”¹⁴⁶ This requirement is consistent with Article 17 of the ICCPR, which “protect[s] against ‘arbitrary or unlawful interference’ with one’s home.”¹⁴⁷ Even though many issues interfere with women’s access to and ability to maintain adequate housing, forced evictions frequently arise out of direct government action and thus warrant special attention.

The broad span of issues related to the right to housing demonstrates its interconnectedness with other rights, including the right to health (safe environment), water (environmental goods and services), and sanitation (access to services, habitability). Each of these connections has been highlighted in various general comments adopted by the ESC Committee¹⁴⁸ and by actions taken by other international actors.¹⁴⁹ In fact, the rights to water and sanitation have recently been identified by the Human Rights Council and the UN General Assembly as independent rights, as well as key components of securing other interrelated rights in the international framework.¹⁵⁰ For

146. General Comment No. 7, *supra* note 144, ¶ 3.

147. *Id.* (quoting ICCPR, *supra* note 21, art. 17(1)).

148. See General Comment No. 9, *supra* note 133, ¶ 1.

148. See CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health, 22nd Sess., ¶ 3, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, at 78 (noting the close relationship between the right to housing and health, among other rights); CESCR, General Comment No. 15: The Right to Water, 29th Sess., ¶ 12, U.N. Doc. E/C.12/2002/11 (Jan. 20, 2003), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, at 97 (considering that the right to water includes accessibility for households to safe drinking water); *id.* ¶ 29 (“In accordance with the rights to health and adequate housing . . . States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.” (citation omitted)).

149. See, e.g., Declaration on Cities and Other Human Settlements in the New Millennium, G.A. Res. S-25/2, ¶ 59, U.N. Doc. A/RES/S-25/2 (Aug. 16, 2001) (resolving to promote access to safe drinking water and facilitate the provision of adequate sanitation in urban settings); Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, *Report of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation*, Hum. Rts. Council, ¶¶ 21–33, U.N. Doc. A/HRC/10/6 (Feb. 25, 2009) (by Catarina de Albuquerque) (taking as a priority in the independent expert’s first mandated year the issue of sanitation).

150. See G.A. Res. 64/292, ¶ 1, U.N. Doc. A/RES/64/292 (Aug. 3, 2010); Human Rights Council Res. 15/9, Rep. of the Human Rights Council, 15th Sess., Sept. 13–Oct. 1, 2010, U.N. GAOR, 65th Sess., Supp. No. 53A, A/65/53/Add.1, at 28, 29–30 (Sept. 30, 2010); see also General Comment No. 15, *supra* note 148 (recognizing the right to water

example, the right to water, though appearing nowhere in the text of the ICESCR, "clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival."¹⁵¹ Moreover, the international community has committed to improving sanitation in numerous international programs and declarations, including the Habitat Agenda¹⁵² and the Millennium Development Goals.¹⁵³ These nonbinding global commitments frequently go hand in hand with national legal obligations to ensure the right to adequate housing.¹⁵⁴

c. Gender and the Right to Housing

Nondiscrimination and equality are key tenets of international human rights law and are enshrined in the international bill of rights,¹⁵⁵ specialized treaties,¹⁵⁶ and regional documents.¹⁵⁷ These documents specifically bar both *de jure* and *de facto* discrimination.¹⁵⁸ The primary treaty protecting the rights of women is CEDAW, which emphasizes that principles of

as derived from the rights to food and health under the ICESCR); Human Rights Council Res. 7/22, Rep. of the Human Rights Council, 7th Sess., Mar. 3–28 & Apr. 1, 2008, U.N. GAOR, 63rd Sess., Supp. No. 53, A/62/53, at 134 (Mar. 28, 2008) (creating the mandate of the independent expert on the issue of human rights and safe drinking water and sanitation, and emphasizing State commitments to improving sanitation).

151. General Comment No. 15, *supra* note 148, ¶ 3.

152. United Nations Conference on Human Settlements (Habitat II), Istanbul, Turk., June 3–14, 1996, *Istanbul Declaration on Human Settlements*, U.N. Doc. A/CONF.165/14, Annex I, ¶ 10 (June 14, 1996) ("We shall also promote healthy living environments, especially through the provision of adequate quantities of safe water and effective management of waste").

153. U.N., *Millennium Development Goals Report 2010*, at 58 (stating that Target 7c demands that by 2015 the proportion of the population without sustainable access to safe drinking water and basic sanitation be halved).

154. *See id.* at 62 (stating that Target 7d demands that by 2020 the lives of at least 100 million slum dwellers be improved).

155. The international bill of rights comprises the UDHR, ICCPR, and ICESCR. Article 2 of each of these documents demands that substantive rights be provided without distinction, including based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. ICCPR, *supra* note 21, art. 2(1); ICESCR, *supra* note 22, art. 2(2); UDHR, *supra* note 119, art. 2.

156. *See, e.g.*, CEDAW, *supra* note 23, art. 1.

157. *See, e.g.*, African Charter, *supra* note 24, art. 2.

158. *See* CEDAW, *supra* note 23, art. 1; *see also* CESCR, General Comment No. 28: Equality of Rights between Men and Women, ¶ 4, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, at 228.

nondiscrimination underpin both civil and political and economic, social, and cultural rights.¹⁵⁹ The Committee on the Elimination of Discrimination against Women (“CEDAW Committee”) has further examined the importance of nondiscrimination in the realm of economic, social, and cultural rights,¹⁶⁰ emphasizing the obligation to ensure nondiscrimination as immediate and cross-cutting, with respect to both formal and substantive discrimination, as well as direct and indirect discrimination.¹⁶¹ The Committee specifically directs states to note that the right to housing does not place any limitations on the rights of female-headed households.¹⁶²

The intersection of women’s rights with housing rights is not limited to ensuring that the right to adequate housing is provided without discrimination. As the CEDAW Committee explains, in order to give full effect to the obligation to ensure equality in the enjoyment of the right, states must give priority to “social groups living in unfavourable conditions,”¹⁶³ which too often means women. This corresponds with provisions of CEDAW that allow for the adoption of “temporary special measures aimed at accelerating de facto equality between men and women.”¹⁶⁴ The CEDAW Committee has clarified that such measures include legislative, programmatic, and preferential treatment, as well as resource allocation.¹⁶⁵ Moreover, CEDAW’s Article 5 requires states to “modify the social and cultural patterns of conduct of men and women” in an effort to eliminate customary practices and stereotypical roles that are based on the idea that one sex is inferior to the other.¹⁶⁶

159. See CEDAW, *supra* note 23, art. 1.

160. See, e.g., General Comment No. 20, *supra* note 26.

161. See *id.* ¶¶ 8, 10.

162. See General Comment No. 4, *supra* note 1, ¶ 6.

163. *Id.* ¶ 11.

164. CEDAW, *supra* note 23, art. 4.

165. See Comm. on the Elimination of Discrimination against Women, General Recommendation No. 25: On Article 4, Paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on Temporary Special Measures, Rep. of the Comm. on Elimination of Discrimination against Women, 30th Sess., Jan. 12–30, 2004, U.N. GAOR, 59th Sess., Supp. No. 38, A/59/38, at 78 (Mar. 18, 2004), *reprinted in* Compilation of General Comments and General Recommendations, *supra* note 1, (Vol. II), at 12.

166. CEDAW, *supra* note 23, art. 5(a).

The Committee on Economic, Social and Cultural Rights has highlighted the challenges that women face in accessing adequate housing in informal settlements, noting particularly their vulnerability to sexual violence.¹⁶⁷ The Special Rapporteur on the Right to Adequate Housing has further explored the particular challenges faced by women in obtaining adequate housing,¹⁶⁸ including women living in informal settlements and emphasizing the vulnerability of single women and widows.¹⁶⁹ Women living in contexts where traditional practices seek to disinherit them upon the death of a spouse are also vulnerable in the context of the right to housing.¹⁷⁰ The Special Rapporteur on the Right to Adequate Housing has therefore adopted recommendations urging states to consider the needs of these especially vulnerable women in making policy and other choices.¹⁷¹

Tanzania's obligations with respect to women's housing rights under these multinational treaties are consistent with its obligations as a state party to the African Charter on Human and Peoples' Rights¹⁷² and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.¹⁷³

167. Comm. on the Elimination of Discrimination against Women, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Kenya, 48th Sess., Jan. 17–Feb. 4, 2011, ¶ 43, U.N. Doc. CEDAW/C/KEN/CO/7 (Feb. 2, 2011).

168. Three of the Special Rapporteur's reports focus on women and housing. See Special Rapporteur on the Right to Adequate Housing, *Rep. by 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*, Comm'n on Hum. Rts., U.N. Doc. E/CN.4/2006/118 (Feb. 27, 2006) (by Miloon Kothari) [hereinafter Kothari 2006/118]; Special Rapporteur on the Right to Adequate Housing, *Study by the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, Comm'n on Hum. Rts., U.N. Doc. E/CN.4/2005/43 (Feb. 25, 2005) (by Miloon Kothari); Special Rapporteur on the Right to Adequate Housing, *Study by 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*, Comm'n on Hum. Rts., U.N. Doc. E/CN.4/2003/55 (Mar. 26, 2003) (by Miloon Kothari) [hereinafter Kothari 2003/55].

169. See Kothari 2003/55, *supra* note 168, ¶ 29 ("In urban slums across the world, [women-headed households] are the most vulnerable, including to sexual exploitation. Women-headed households and single women have insufficient access to resources and credit owing to their status.").

170. See CEDAW, *supra* note 23, arts. 14(2)(h), 16(1)(h); see also Kothari 2006/118, *supra* note 168, ¶ 9.

171. See Kothari 2006/118, *supra* note 168, ¶ 75.

172. See African Charter, *supra* note 24, art. 18.

173. See African Protocol, *supra* note 25.

The Protocol not only enumerates the right of women to access to adequate housing,¹⁷⁴ but it also requires states to protect women's rights to inheritance, noting that a

widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.¹⁷⁵

This obligation applies equally in situations where traditional cultural or legal systems may otherwise disinherit women.¹⁷⁶ This requirement to protect women's inheritance rights, together with the obligation to ensure that women have equal access to adequate housing¹⁷⁷ and the ability to "live in a healthy and sustainable environment,"¹⁷⁸ provides specific protections for women living in urban settlements and reinforces those protections that have been fleshed out at the international level.¹⁷⁹

2. Domestic Law

Although international and African regional laws explicitly codify both the right to adequate housing and women's right to be free from discrimination, Tanzania's domestic framework surrounding these rights is less direct. While the nation is often heralded as having a robust legal framework, in certain instances its laws are contradictory, and in others there is a general lack of enforcement,¹⁸⁰ sensitivity,¹⁸¹ and knowledge,¹⁸² especially with

174. *See id.* art. 16 ("Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.").

175. *Id.* art. 21.

176. *See id.* art. 2 ("States Parties shall commit themselves to modify the social and cultural patterns of conduct of women . . . with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.").

177. *See id.* art. 16.

178. *Id.* art. 18.

179. *See CEDAW, supra* note 23, arts. 14(2)(h), 16(1)(h); *see also* Kothari 2006/118, *supra* note 168, ¶ 9.

180. Interview with Robert Mhamba, Professor, Inst. of Dev. Studies, Univ. of Dar es Salaam, in Dar es Salaam, Tanz. (May 27, 2010); Interview with Representatives, National Housing Corporation, in Moshi, Tanz. (May 18, 2010).

respect to women's legal rights. This Section outlines shortfalls in the Tanzanian constitution with respect to general human rights principles, provides an overview of Tanzania's discriminatory inheritance system, discusses advancements in Tanzania's laws on land and mortgages, and explores the multifaceted challenges women face under marriage and domestic violence laws, among others. While some legal advancements have been made for Tanzanian women, what ultimately results under the current framework is women's continued relegation to life lived in an "appallingly unequal society."¹⁸³

a. The Constitution

Tanzania's Constitution includes broad provisions protecting human rights. Article 9 lays out the government's obligation to respect and cherish human dignity¹⁸⁴ and to "direct their policies . . . towards ensuring . . . that human dignity is preserved and upheld in accordance with the spirit of the Universal Declaration of Human Rights."¹⁸⁵ This same article includes a general anti-discrimination provision, covering "men and women alike,"¹⁸⁶ and directs the government to use national wealth toward the "development of the people" and the "eradication of poverty, ignorance and disease."¹⁸⁷ However, Article 7(2) renders these provisions unenforceable in court.¹⁸⁸

Expanding on these general articles is Tanzania's Bill of Rights, which was adopted in 1984.¹⁸⁹ Guaranteeing such rights as life,¹⁹⁰ freedom of conscience,¹⁹¹ and work,¹⁹² the bill of rights is

181. Interview with Representatives, MPLC, in Morogoro, Tanz. (May 18, 2010).

182. Interview with Tabitha Siwale, Exec. Dir., Women's Advancement Trust [WAT]-Human Settlements, in Dar es Salaam, Tanz. (May 25, 2010).

183. Interview with Sara Cameron, Chief of Commc'ns, UNICEF, in Dar es Salaam, Tanz. (May 25, 2010).

184. TANZ. CONST. art. 9(a).

185. *Id.* art. 9(f).

186. *Id.* art. 9(g).

187. *Id.* art. 9(i).

188. *Id.* art. 7(2).

189. See Florens D.A.M. Luoga, *The Tanzanian Bill of Rights*, in FUNDAMENTAL RIGHTS AND FREEDOMS IN TANZANIA 37, 39 (Chris Maina Peter & Ibrahim Hamisi Juma eds., 1998).

190. TANZ. CONST. arts. 14–17.

191. *Id.* arts. 18–21.

192. *Id.* arts. 22–24.

most relevant for its right to equality.¹⁹³ More specifically, Article 12 entitles "every person" to "respect for his dignity,"¹⁹⁴ and Article 13 ensures equality before the law and bars any discriminatory laws, either in purpose or effect;¹⁹⁵ the constitution's definition of discrimination has recently been amended to include "sex."¹⁹⁶ Furthermore, Article 24(1) guarantees the right of every person to own property,¹⁹⁷ with Article 24(2) making it "unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of the law which makes provision for fair and adequate compensation."¹⁹⁸ Under the "General Provisions" found in Article 29, "[e]very person has the right to enjoy fundamental human rights,"¹⁹⁹ and it bars any special status based on "lineage, tradition or descent."²⁰⁰ On their face, these rights are absolute; however, Article 30(2)(f) presents a general clawback provision:

It is hereby declared that the provisions contained in this Part of this Constitution which set out the principles of rights, freedom and duties, does not render unlawful any existing law or prohibit the enactment of any law or the doing of any lawful act in accordance with such law for the purpose of . . . enabling any other thing to be done which promotes, or preserves the national interest in general.²⁰¹

Unfortunately, this general clawback provides no guidance on its application;²⁰² thus, any "flimsy reason" could be used to pass restricting legislation in the "national interest."²⁰³ More importantly, this provision provides a basis for the executive to decline to nullify discriminatory laws.²⁰⁴ In sum, the Tanzanian Constitution's Bill of Rights has been criticized as "[s]tate-

193. *Id.* arts. 12, 13.

194. *Id.* art. 12(2). Note that the language of the constitution is not gender neutral.

195. *Id.* art. 13(2).

196. *Id.* art. 13(5).

197. *Id.* art. 24(1).

198. *Id.* art. 24(2).

199. *Id.* art. 29(1).

200. *Id.* art. 29(3)-(4).

201. *Id.* art. 30(2)(f).

202. See Luoga, *supra* note 189, at 41.

203. See *id.*

204. See *id.*

centric, vague in its formulation and incomplete,” and “not a product of the conscious decision of the people as a whole.”²⁰⁵

b. Inheritance Law

With respect to equality, perhaps the most complex, and troubling, area of Tanzanian law is inheritance. In Tanzania, issues of inheritance fall into several competing legal systems: customary, statutory, Islamic, and Hindu, the last of which is rarely applicable.²⁰⁶ Each set of laws stipulates a succession order, estate division and distribution, and intestacy and testacy frameworks. Customary rules of testate and intestate inheritance are codified in Local Customary Law (Declaration) Order 1963 (“Customary Law”).²⁰⁷ Under all of these frameworks, nearly every woman in Tanzania, at some point in her life, will be forced to live without land, preventing women’s economic empowerment and contributing to the global feminization of poverty.²⁰⁸ This dispossession of land (and housing) results in (1) women migrating to cities from rural areas and (2) women living in poverty in urban areas.

i. Customary Law

Customary law is Tanzania’s predominant inheritance scheme and is statutorily presumed to apply to all Tanzanians of

205. *See id.* at 43.

206. *See* LAW REFORM COMM’N [LRC], REPORT ON THE LAW OF SUCCESSION 18 (1995), available at www.commonlii.org/tz/other/TZLRC/report/R1/1.pdf; *see also* MAGDALENA K. RWEBANGIRA, THE LEGAL STATUS OF WOMEN AND POVERTY IN TANZANIA 14 (1996).

207. Local Customary Law, No. 4 (1963) Cap. 358, Sched. 2, Laws on Inheritance [Sheria za Urithi] (Tanz.). The law applies to the districts set forth in subsidiary legislation, which covers all patrilineal groups or 80% of Tanzania’s ethnic communities. LRC, *supra* note 206, at 21. While matrilineal groups have traditionally followed a separate inheritance scheme, they are increasingly conforming to the codified patrilineal mode of inheritance. *See* MARJOLEIN BENSCHOP, RIGHTS AND REALITY: ARE WOMEN’S EQUAL RIGHTS TO LAND, HOUSING, AND PROPERTY IMPLEMENTED IN EAST AFRICA? 131 (2002).

208. *See* Comm’n on Hum. Rts. Res. 2000/13, Rep. of the Econ. and Soc. Council on the Fifty-Sixth Session of the Commission, U.N. Doc. E/CN.4/2000/L.11/Add.1, at 31 (Apr. 17, 2000) (recognizing that laws barring women from owning land and housing “are discriminatory and may contribute to the feminization of poverty” and affirming that such laws “constitute[] a violation of women’s human right to protection against discrimination”).

African origin irrespective of religion.²⁰⁹ To overcome this presumption, a person of African origin, by statute, must show that (1) the deceased abandoned his tribe's norms ("mode of life" test)²¹⁰ or (2) the deceased intended to administer his estate according to Islamic law or the Indian Succession Act ("intent of the deceased" test).²¹¹ Both tests are difficult to meet. When using the "mode of life" test, courts generally balance several factors, including whether the deceased was alienated from his family, whether the deceased's children had connections with his family, and how long the deceased had been away from his area of origin.²¹² Judges do not apply these factors consistently and often use broad discretion to determine the outcome.²¹³

Under customary law, women's and girls' inheritance rights are negligible. Their exclusion is explicit: "Inheritance follows the patrilineal side."²¹⁴ The main principle cited for excluding women and girls from inheritance is the threat of losing land to "outsiders," or members of a different clan.²¹⁵ Once a woman marries, she effectively becomes the property of her husband and

209. Customary law regulates succession for "a person who is or was a member of a community in which rules of customary law relevant to the matter are established and accepted." Judicature and Application of Laws Act, (2002) Cap. 358 § 11(1)(b) (Tanz.).

210. *See id.* § 11(1)(c).

211. *See* Probate and Administration of Estates Act, (1963) Cap. 352 §§ 88(1)(a), 89(1)(a)(ii) (Tanz.). The "intent of the deceased" test generally functions to determine whether Islamic law applies. *See* LRC, *supra* note 206, at 27–28.

212. *See* BENSCHOP, *supra* note 207, at 130.

213. *See* Tamar Ezer, *Inheritance Law in Tanzania: The Impoverishment of Widows and Daughters*, 7 GEO. J. GENDER & L. 599, 614 (2006).

214. Local Customary Law, No. 4 (1963) Cap. 358, Sched. 2, Laws on Inheritance [Sheria za Urithi] (Tanz.). When the deceased leaves sons, or sons and daughters, they exclusively inherit his property. *Id.* The order of succession is children (sons and daughters), brothers, sisters, father, paternal uncles and aunts, husband/wife. *See* MAGDALENA K. RWEBANGIRA & M.C. MUKOGOYO, *THE LAW OF INHERITANCE IN TANZANIA: A STATUS REPORT* 5–7 (1995). However, customary law divides inheritance into three degrees. Laws on Inheritance, *supra*. Generally, "the first degree is for the first son, the second degree is for other sons, and the third degree is for daughters." *Id.* If the marriage is polygamous, the "first son" is the first wife's first son. TANZANIA WOMEN LAWYERS ASS'N [TAWLA], *REVIEW OF GENDER DISCRIMINATIVE LAWS IN TANZANIA* 20 (2009). The first son of the first legal marriage, as the first-degree heir, receives the largest share of the estate. Other sons receive the next largest share. *See id.* Finally, daughters inherit the smallest share, irrespective of their age in relation to their brothers. *See* Laws on Inheritance, *supra*. Only if the deceased leaves no sons can a daughter become an heir in the first degree. *Id.* Even then, a daughter cannot inherit clan land. *Id.* She may use the land during her lifetime, but, unlike her brothers, she cannot sell it, even if she is the only child. *Id.*

215. *See* LRC, *supra* note 206, at 40.

his family, and she too becomes an "outsider."²¹⁶ As one traditional saying asserts, "A female was born looking outside her family/clan, whereas a male was born looking inside the residence."²¹⁷

Widows are particularly vulnerable under customary law. In nearly all cases, a widow cannot inherit: "The widow has no share of the inheritance if the deceased left relatives of his clan; her share is to be cared for by her children, just as she cared for them."²¹⁸ In addition to explicitly denying a widow inheritance, customary law subordinates her into dependency: "The deceased's heir shall have the responsibility of taking care of the widow."²¹⁹ In addition, if her children are minors, the widow may agree, with the clan council's approval, "to be inherited" by one of her husband's relatives.²²⁰ Once "inherited," the woman effectively becomes the man's property and relinquishes her status as a family decision maker.²²¹ If the widow refuses to be inherited, the consequences are grim: she risks being evicted from her home, losing her children to the deceased's family, and having to return, destitute, to her own family,²²² or move elsewhere.

In rare instances, customary law provides widows limited inheritance rights. If a widow is childless, she is entitled to receive

216. *Id.* (citation omitted).

217. *Id.* (quoting a Bahaya saying).

218. Local Customary Law, No. 4 (1963) Cap. 358, Sched. 2, Laws on Inheritance [Sheria za Urithi] (Tanz.).

219. *Id.*

220. See Local Customary Law, No. 4 (1963) Cap. 358, Sched. 1, Laws on Guardianship [Sheria za Ulinzi] (Tanz.); see also Ezer, *supra* note 213, at 609.

221. The Laws on Guardianship grant significant power to the guardian: "The guardian shall supervise livestock and agriculture activities," "deal with all the problems," "hold the wife accountable for committing adultery," and "bring a suit in court for damages against the wife who committed adultery." Local Customary Law, No. 4 (1963) Cap. 358, Sched. 1, Laws on Guardianship [Sheria za Ulinzi] (Tanz.). For more discussion on guardianship laws, see generally Tamar Ezer et al., *Child Marriage and Guardianship in Tanzania: Robbing Girls of their Childhood and Infantilizing Women*, 7 GEO. J. GENDER & L. 357 (2006).

222. Local Customary Law, No. 279 (1963) Cap. 358, Sched. 1, Laws of Persons [Sheria Zinazohusu Hali ya Watu] (Tanz.) ("The deceased's relatives may ask a widow whether she wishes to be inherited. If she refuses, the bridewealth is not refunded and she, (the widow), shall be free to leave and reside with her natal family. . . . If the widow, by her persistence, lives with a man who is not her deceased husband's relative, the clan council has the right to warn her and if it is not heeded, the council may send her back to her father's family and also take the children from her.").

one-twentieth of one-half of the movable property, land, and crops that have been acquired since the marriage began.²²³ This benefit is conditional; to retain it, the widow must "use the farm for cultivation, using proper methods."²²⁴ Even if she meets this condition, a widow cannot sell or bequeath the property; when she remarries or dies, all immovable property is "promptly" returned to the deceased husband's relatives.²²⁵ Customary law ensures that the husband's family firmly controls all land to the exclusion of the widow.

Customary law recognizes wills while reaffirming the discriminatory inheritance scheme. The relevant provision states, "A testator has the mandate to change the rules of intestate. But he may not deny his heir's share of inheritance without reasonable grounds."²²⁶ The clan council has the authority to hear the divested heir's complaint and determine if reasonable grounds exist.²²⁷ The Laws of Wills does not allow a husband to leave property to his wife so that she may sell and bequeath it in kind: "A husband can make a Will to his wife so that she can inherit agricultural production or income from his property *until she remarries or dies*."²²⁸ Thus, strictly speaking, even where a will exists, the exclusion of women from inheritance persists under customary law.

Moreover, customary law prefers that men distribute the estate. Generally, the deceased's eldest brother, father, or other male relative will serve as administrator.²²⁹ A sister can serve only if there are no male relatives,²³⁰ and a widow is never entitled to administer the estate.²³¹ The administration procedures presuppose that only a husband has a personal interest in the

223. *Id.*

224. *Id.*

225. *Id.*

226. Local Customary Law, No. 4 (1963) Cap. 358, Sched. 3, Laws of Wills [Sheria za Wosia] (Tanz.).

227. *See id.* The order also lists the reasonable grounds. These include: "If the heir has committed adultery with his wife . . . [,]has tried to kill him, or assaulted him [or] . . . without reasonable cause, did not take care of the person making the Will at the time of famine or sickness." *Id.*

228. *Id.* (emphasis added).

229. *See* Local Customary Law, No. 4 (1963) Cap. 358, Sched. 2, Laws on Inheritance [Sheria za Urithi] (Tanz.).

230. *See id.*

231. *See* Ezer, *supra* note 213, at 618.

property; formal applications for administration are required only when the husband dies, not when the wife dies.²³² The wife thus is taken to have had no interest in property to which she may have jointly contributed during the marriage.²³³

ii. Statutory Law

The Indian Succession Act of 1865 governs inheritance primarily for Tanzanians who are of European and Asian origin, or who are Christian.²³⁴ The act rarely applies to Tanzanians of African origin²³⁵ and is Tanzania's only gender-neutral inheritance framework. When a husband dies intestate, his wife and kin are entitled to inherit the estate.²³⁶ The deceased's wife receives one-third of the property and the children receive the remaining two-thirds equally.²³⁷ If the deceased left no children, the estate is divided equally between the widow and the deceased's relatives.²³⁸ The widow inherits the entire estate if the deceased left no children or relatives.²³⁹ Under the act, these rules apply equally to widowers.²⁴⁰

The act makes no distinction between male and female children. Sons and daughters inherit equally as lineal descendants.²⁴¹ If there are no lineal descendants, the spouse receives one-half the estate, and the descendant's relatives (father, mother, brothers, and sisters) share the remaining half.²⁴² Children born out of wedlock are not entitled to inherit

232. See LRC, *supra* note 206, at 7.

233. See *id.*

234. Indian Succession Act, No. 10 (1865). The Indian Succession Act applies to Tanzania under the Judicature and Application of Laws Act. See Judicature and Application of Laws Act, (2002) Cap. 358 §§ 14–18 (Tanz.). No legal authority indicates that the Succession Act does not apply to Tanzanians who are Christian and of African origin. Yet in practice, the burden of proof to show that customary law is not applicable persists even for Christian Africans. See TAWLA, *supra* note 214, at 21.

235. LRC, *supra* note 206, at 47.

236. See Indian Succession Act § 26. The act makes no distinction between movable and immovable property, thus both can be inherited.

237. *Id.* § 27.

238. *Id.*

239. *Id.*

240. *Id.* § 43.

241. *Id.* §§ 29, 30.

242. *Id.* § 27.

the deceased father's estate, although they may be able to inherit from their deceased mother.²⁴³

The Succession Act recognizes wills, but with a peculiar condition for women. The relevant statutory law provides that a married woman may dispose by will any property that she is able to alienate during her lifetime.²⁴⁴ Thus, unless a married woman is able to enforce her right to own land completely (with the ability to sell and bequeath) during her lifetime, she will not be able to properly bequeath property in a will.

Under the statutory inheritance scheme, women generally do not have the authority to administer estates. The Probation and Administration of Estates Act designates the deceased's nearest male relative to administer a "small" estate (TSh. 1000 to TSh. 10,000), a category that includes the majority of estates.²⁴⁵ A surviving spouse may administer only when the estate is worth less than Tsh. 1000.²⁴⁶ Since few estates are valued so low, this rule rarely applies.²⁴⁷

iii. Islamic Law

Islamic law is the most common religious law governing inheritance in Tanzania.²⁴⁸ Islamic inheritance rules are prescribed by the Qur'an and applied through several statutory provisions.²⁴⁹ These rules do not apply automatically to African Muslims;²⁵⁰ rather, they apply only if the deceased (1) was Muslim, (2) had expressly (orally or in writing) indicated that Islamic law should apply in his estate's administration, and (3) had demonstrated an intention to have Islamic law govern his

243. See BENSCHOP, *supra* note 207, at 127 (citing RWEBANGIRA & MUKOGOYO, *supra* note 214, at 4).

244. LRC, *supra* note 206, at 47.

245. See Probate and Administration of Estates Act, (1963) Cap. 352 § 87(1) (Tanz.). For reference purposes, at the time of this Report US\$1 was approximately equal to TSh. 1485.50.

246. See *id.*; Ezer, *supra* note 213, at 618.

247. See Ezer, *supra* note 213, at 618.

248. Nearly 35% of Tanzania's population is Muslim. See BENSCHOP, *supra* note 207, at 131.

249. See Ezer, *supra* note 213, at 606–07 n.27; see also LRC, *supra* note 206, at 23–24.

250. See BENSCHOP, *supra* note 207, at 131.

estate's administration.²⁵¹ If one of these conditions is not met, customary law will apply.²⁵²

Islamic law's applicability is narrow. It is unlikely to apply unless both spouses are Muslim. Thus, a wife who is not Muslim cannot inherit from her Muslim husband; similarly, a Muslim woman who marries a non-Muslim man loses her rights of inheritance under Islamic Law.²⁵³ The Qur'an prescribes the distribution rules, with heirs comprised of the surviving spouse, father, mother, and children.²⁵⁴ A child born out of wedlock cannot be heir, even if, after the birth, the child's father marries the mother.²⁵⁵

The Qur'an's intestacy rules "facially discriminate[]" against women.²⁵⁶ If the deceased left children, a widow is entitled to one-eighth of the estate, while a widower receives one-quarter. If the deceased left no children, the widow receives one-quarter of the estate, while a widower receives one-half. In polygamous marriages, the wives divide the one allotment between them.²⁵⁷ Similarly, the Islamic scheme grants daughters and sisters only one-half the share of sons' and brothers' inheritance.²⁵⁸

This discriminatory scheme persists despite the execution of a will. The Qu'ran, while recognizing testate inheritance, only allows a person to bequeath one-third of the estate; the remaining two-thirds must be distributed according to the intestacy rules.²⁵⁹ Reportedly, a husband may name his wife in the will as the sole inheritor (of one-third his estate) as long as the other heirs consent.²⁶⁰ How frequently this occurs is unknown.

Islamic law does not define procedures for distributing the deceased's estate. In practice, however, women are excluded

251. See Probate and Administration of Estates Act, (1963) Cap. 352 § 88(a) (Tanz.).

252. See *id.*

253. See LRC, *supra* note 206, at 31.

254. See TAWLA, *supra* note 214, at 22.

255. See *id.*

256. See Ezer, *supra* note 213, at 615.

257. See *id.* Thus if there are four wives, each wife will get one-thirty-second of the estate. This never applies to men; it is prohibited for a woman to have more than one husband. See Law of Marriage Act, No. 5 (1971) Cap. 335 § 152 (Tanz.).

258. See Holy Qur'an 4:11 (Ahmadiyyah Anjuman Isha'at Islam, Lahore, Inc., ed. 1995) ("Allah enjoins you considering your children: for the male is the equal of the portion of two females.").

259. See TAWLA, *supra* note 214, at 22.

260. See *id.*

from the administration. A Muslim widow is confined to the home to mourn for 120 days following her husband's death.²⁶¹ During the mourning period, the deceased's relatives generally proceed to administer the estate without consulting the widow.²⁶²

c. Land and Mortgages

As discussed, the National Land Policy was revolutionary in that it recognized the link between rapid urbanization and the increasing demand for land in urban centers;²⁶³ however, the advancements it offered with respect to women's access to land were mixed. While acknowledging that women's access to land is "indirect and insecure,"²⁶⁴ it also declared that

[w]omen will be entitled to acquire land in their own right not only through purchase but also through allocations. However, inheritance of clan land will continue to be governed by custom and tradition provided such custom and tradition is not contrary to the Constitution and is not repugnant to the principles of natural justice.

Ownership of land between husband and wife shall not be the subject of legislation.²⁶⁵

This ambiguous approach to women's land rights repeats itself in the 1999 Land Acts, which codified much of the National Land Policy. The acts—consisting of the Land Act,²⁶⁶ which governs urban land reform, and the Village Land Act,²⁶⁷ which governs rural reform—came into force in May 2001.²⁶⁸ They have been heralded as a breakthrough in Tanzanian land rights, but also criticized in their inability to effect real change for women.²⁶⁹

On one hand, the laws seem to enshrine women's rights with respect to land tenure. Both acts include an explicit anti-

261. See Ezer, *supra* note 213, at 618.

262. See *id.*

263. See NATIONAL LAND POLICY, *supra* note 106, § 1.1(v).

264. *Id.* § 4.2.5.

265. *Id.* § 4.2.6(i), (ii).

266. Land Act, No. 4 (1999) Cap. 113 (Tanz.).

267. Village Land Act, No. 5 (1999) Cap. 114 (Tanz.).

268. See MLOLE, *supra* note 105, at 4. See generally Geoffrey E. Roughton, *Comprehensive Land Reform as a Vehicle for Change: An Analysis of the Operation and Implications of the Tanzanian Land Acts of 1999 and 2004*, 45 COLUM. J. TRANSNAT'L L. 551 (2007) (providing an overview of the evolution of Tanzanian land-reform legislation).

269. See INGUNN IKDAHL ET AL., HUMAN RIGHTS, FORMALISATION, AND WOMEN'S LAND RIGHTS IN SOUTHERN AND EASTERN AFRICA 45–46 (2005).

discrimination provision, declaring that women have the right to “acquire, hold, use and deal with land” to the same extent as men.²⁷⁰ The Land Act imposes a rebuttable presumption that all spouses, including those in polygamous marriages, share joint ownership of property²⁷¹ and allows contributions of “labour to the productivity, upkeep and improvement of the land” to establish an interest in land that is held in only one spouse’s name.²⁷² Women membership in land committees and councils is now mandatory; for example, three of the seven assessors on the Disputes Settlement Tribunals must be women.²⁷³ Furthermore, the 2004 amendments to the 1999 Land Act²⁷⁴ require the manifested consent of the borrower’s spouse(s) in order to mortgage the matrimonial home, including under customary law.²⁷⁵ Compared to the previous land rights regime, the 1999 laws and the 2004 amendments mark a significant improvement for women.

Unfortunately, these progressive measures are not without their caveats. First, the law fails to address women’s inheritance rights. For example, section 20(2) of the Village Land Act states that customary law decisions with respect to land held under customary tenure will be upheld so long as they respect Tanzanian law, including the constitution.²⁷⁶ The provision raises, but ultimately fails to address, the conflict between discriminatory customary inheritance laws and the constitution’s anti-discrimination measures.²⁷⁷ Thus, while women now have the right to own land, nothing in the statute entitles them to inherit it. Second, the same section declares that customary law rules and decisions are considered void “to the extent to which [they] den[y] women, children or Persons with disability lawful access to

270. See Land Act § 3(2); Village Land Act § 3(2).

271. See Land Act § 161(1) (indicating a presumption of joint occupancy unless clearly stated otherwise).

272. *Id.* § 161(2) (noting that such contributions establish occupancy in common).

273. See MLOLE, *supra* note 105, at 6. The Disputes Settlement Tribunals were put in place by the Land Disputes Courts Act of 2002, which implements the Land Act’s provision for new methods of dispute resolution. See Land Disputes Courts Act, No. 2 (2002) Cap. 216 § 26(1) (Tanz.). Similarly, three of the seven member of the village council shall be women, see *id.* § 5(1), and three of the four to eight member of the Ward Tribunal shall be women, see *id.* § 11.

274. Land (Amendment) Act, No. 2 (2004) Cap. 113 (Tanz.).

275. See *id.* § 114.

276. See Village Land Act, No. 5 (1999) Cap. 114, § 20(2) (Tanz.).

277. See BENSCHOP, *supra* note 207, at 116–17.

ownership, occupation or use of any such land.”²⁷⁸ Arguably, this section diminishes women’s newly acquired right to own property²⁷⁹ by merely requiring “access” to land, rather than outright ownership.²⁸⁰ Similar arguments regarding the gender equality of land dispute resolution mechanisms, equal representation in local land governance,²⁸¹ and knowledge about the law, as well as its lack of enforcement, persist.

In addition, recent legislative measures amending the Land Act’s “mortgage-consent clause” may further erode women’s rights.²⁸² The Mortgage Financing (Special Provisions) Act of 2008 amends the mortgage-consent clause, which imposed on the mortgagee/lender the burden of investigating whether a mortgagor had a spouse.²⁸³ The newly amended provision shifts that burden to the mortgagor, requiring only follow-up verification of the disclosure by the mortgagee/lender.²⁸⁴ The amendment then requires mortgagees to obtain a formal declaration on the mortgagor’s marital status, and makes “knowingly giving false information to the mortgagee” a criminal offense that could result in a fine of not less than half the value of the loan or a minimum prison term of twelve months.²⁸⁵ Not only does this amendment shift the burden of disclosure onto potentially dishonest spouses, but Tanzanian NGOs also fear that the criminal penalty will result in either loss of the marital home due to loan default upon a criminal fine or women being evicted from their homes as a direct result of their inability to satisfy mortgage obligations upon their husbands’ convictions.²⁸⁶

278. Village Land Act § 20(2); *see also* BENSCHOP, *supra* note 207, at 116–17 (discussing differences between the original provision and the provision as adopted).

279. *See* Land Act, No. 4 (1999) Cap. 113 § 3(2) (Tanz.); Village Land Act § 3(2).

280. *See* BENSCHOP, *supra* note 207, at 117.

281. *See* Mallya, *supra* note 106, at 195, 197; MLOLE, *supra* note 105, at 5.

282. Mortgage Financing (Special Provisions) Act, No. 17 (2008), amends the Land (Amendment) Act, No. 2 (2004) Cap. 113 (Tanz.).

283. *See* Land (Amendment) Act § 114(2).

284. *See* Mortgage Financing (Special Provisions) Act § 8.

285. *Id.*

286. *See* E-mail from Anna Meela-Kulaya, Program Officer, Legal Education & Training, Women in Law and Dev. in Afr. (WiLDAF), to author (May 27, 2010, 02:53 EST) (on file with author); *see also* Interview with Lawyers & Paralegals, TAWLA, in Dar es Salaam, Tanz. (May 18, 2010).

Clearly, alarming deficiencies remain in the area of women's land rights.²⁸⁷ Critics of the laws maintain that "it is striking how little the Land Act and Village Land Act ha[ve] changed the way that land is administered on the ground."²⁸⁸ While the changes to the "mortgage-consent clause" are so recent and the impact remains to be seen, the changes will likely be detrimental to women's housing rights.

d. Additional Legislation Impacting Women's Access to Adequate Housing

In addition to the provisions discussed above, several other Tanzanian laws have an impact on women's ability to realize their right to adequate housing in urban areas. Such laws warrant a brief overview.

i. The Law of Marriage Act

The Tanzanian Law of Marriage Act ("LMA") of 1971 revolutionized Tanzanian family law.²⁸⁹ Building on model legislation that had been proposed in Kenya, but that was ultimately rejected there for taking "insufficient account of African customs and traditions and [giving] too many rights to women,"²⁹⁰ the LMA is a "pioneering"²⁹¹ and "proactive"²⁹² piece of legislation that attempts, and at least partially succeeds in, untangling a complicated pluralist family law system.²⁹³

287. See, e.g., ROBIN PALMER, OXFAM GB, *THE TANZANIAN LAND ACTS, 1999: AN ANALYSIS OF THE ANALYSES 4-5* (1999), available at <http://www.oxfam.org.uk/resources/learning/landrights/downloads/tananaly.rtf> (presenting Liz Wily's positive views of the acts).

288. Geir Sundet, *The 1999 Land Act and Village Land Act: A Technical Analysis of the Practical Implications of the Acts* 1 (Feb. 28, 2005) (unpublished working draft), available at http://www.oxfam.org.uk/resources/learning/landrights/downloads/1999_land_act_and_village_land_act.rtf; see also PALMER, *supra* note 287, at 2-4 (presenting the views of Issa Shivji, who argues that the poor will most likely fail to benefit from the land laws and may in fact suffer as a result); Manji, *supra* note 102, at 666.

289. See Mark J. Calaguas et al., *Legal Pluralism and Women's Rights: A Study in Postcolonial Tanzania*, 16 COLUM. J. GENDER & L. 471, 493 (2007).

290. *Id.* at 492 (quoting Andreas Rahmatian, *Termination of Marriage in Nigerian Family Laws: The Need for Reform and the Relevance of the Tanzanian Experience*, 10 INT'L J.L. POL'Y & FAM. 281, 297 (1996) (U.K.)).

291. *Id.* at 493 (quoting James S. Read, *A Milestone in the Integration of Personal Laws: The New Law of Marriage and Divorce in Tanzania*, 16 J. AFR. L. 19, 19 (1972) (U.K.)).

292. *Id.*

293. See *id.*

Although it has its shortcomings,²⁹⁴ the LMA advanced women's rights within marriage in many ways. For example, it established a rebuttable presumption of marriage after a two-year period of cohabitation²⁹⁵ and overhauled the way marital property is distributed upon divorce. While the LMA recognizes the "custom of the community" in making such property divisions, it also weighs "the extent of the contributions made by each party" including through "money, property or work towards the acquiring of the assets."²⁹⁶ Moreover, property acquired by one spouse prior to the marriage but "substantially improved during the marriage by the other party or by their joint efforts" is considered marital property.²⁹⁷ These provisions have proven controversial—not only is it difficult for wives to demonstrate their contributions, but they do not "specify what kinds of activities constitute work done in contribution to the accumulation of marital assets."²⁹⁸ However, the courts have confirmed that domestic work does constitute a contribution for assessment purposes.²⁹⁹

Various LMA provisions also contradict traditions considered to be "customary." The act institutes a minimum age of fifteen for girls to marry,³⁰⁰ eliminates the requirement of payment of a bride price or dowry,³⁰¹ bars the infliction of corporal punishment on a spouse by another spouse (although no penalty is proscribed),³⁰² and prohibits the alienation of a matrimonial home without the consent of both (or all) spouses.³⁰³ Perhaps most importantly, the LMA declares that married women "shall have the same right as a man to acquire, hold and dispose of property, whether movable or

294. See, e.g., *id.* at 505–16.

295. See Law of Marriage Act, No. 5 (1971) Cap. 335 § 160(1), (2) (Tanz.).

296. *Id.* § 114(1), (2).

297. *Id.* § 114(3).

298. Calaguas et al., *supra* note 289, at 501 (citing Rose Mtengeti-Migiro, *The Division of Matrimonial Property in Tanzania*, 28 J. MOD. AFR. STUD. 521, 522, 525 (1990) (U.K.)).

299. See *id.* at 502–03 (citing *Bi Hawa Mohamed v. Ally Seifu*, (1983) T.L.R. 32 (Tanz.)).

300. See Law of Marriage Act § 13(1). Note that the minimum age for boys to marry is eighteen. *Id.* The court has discretion to permit marriage at as early as fourteen years of age given special, but undefined, circumstances. *Id.* § 13(2).

301. *Id.* § 41(a).

302. *Id.* § 66.

303. *Id.* § 59(1).

immovable,”³⁰⁴ and removes the threat of eviction from the matrimonial home upon desertion by a spouse, except in cases of bankruptcy or court-sanctioned estate sale.³⁰⁵ Although the LMA permits polygamy—and bars polyandry³⁰⁶—it declares that in polygamous marriages all wives shall “enjoy equal rights.”³⁰⁷ Finally, notwithstanding customs to the contrary, the LMA indicates that a widow is free “to remain unmarried” or “to marry again any man of her own choosing,” and is free “to reside wherever she may please.”³⁰⁸ Tanzanian courts have asserted the supremacy of the LMA, even in the face of contradictory customary laws.³⁰⁹

ii. The Sexual Offences Special Provisions Act

Tanzania’s Sexual Offenses Special Provisions Act (“SOSPA”) of 1998 “radically changed the sentencing framework for violence against women”³¹⁰ and has been hailed by the UN as a “major achievement in addressing gender issues.”³¹¹ Enacted to address shortfalls in pre-SOSPA legislation, the act is designed “to further safeguard the personal integrity, dignity, liberty and security of women and children”³¹² and has been incorporated into Tanzania’s domestic penal code. SOSPA makes great strides in legislating for the protection of vulnerable groups, but it also leaves serious gaps and requires much more to be done with respect to awareness-raising, training, and enforcement in order to be fully effective.³¹³

304. *Id.* § 56.

305. *Id.* § 59(3).

306. *Id.* § 9.

307. *Id.* § 57.

308. *Id.* § 68.

309. See Calaguas et al., *supra* note 289, at 504 (citing illustrative cases).

310. CRISTINA BUCCINA ET AL., GENDER-BASED VIOLENCE IN TANZANIA: AN INVESTIGATION OF THE EFFECTIVENESS OF THE SEXUAL OFFENSES SPECIAL PROVISIONS ACT OF 1998, at 11 (2009).

311. Comm. on the Elimination of Discrimination against Women, *Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women*, ¶ 26, U.N. Doc. CEDAW/C/TZA/6 (Apr. 16, 2007) [hereinafter Combined Tanzania Report].

312. The Sexual Offenses Special Provisions Act, No. 4 (1998) Cap. 101 pmbl. (Tanz.).

313. See generally BUCCINA, *supra* note 310.

Specifically, SOSPA strengthens the legal framework surrounding crimes of a sexual nature.³¹⁴ It sets a minimum punishment for rape at “not less than thirty years with corporal punishment, and with fine,” and provides for court-ordered compensation payable to rape victims,³¹⁵ with increased punishment for the rape of young girls.³¹⁶ The crimes of gang rape, grave sexual abuse, and other sexually exploitative crimes are included in the act,³¹⁷ as is female genital mutilation of persons less than eighteen years of age.³¹⁸ SOSPA also attempts to encourage victims of sexual assault to testify by amending existing evidentiary and procedural laws to ease this process.³¹⁹

Although laudable, SOSPA has also been broadly criticized for its gaps. Despite an expanded definition of “rape,”³²⁰ it fails to include a provision barring marital rape.³²¹ In addition, although SOSPA addresses forced prostitution and sexual exploitation of women,³²² it does little to protect the health rights of women engaged in prostitution.³²³ Most striking are criticisms of the Tanzanian government’s implementation of SOSPA³²⁴ and its failure to tackle discriminatory cultural attitudes towards women.³²⁵ For example, SOSPA fails to include provisions addressing domestic violence, and the Tanzanian government has indicated that the establishment of domestic violence shelters

314. See Sexual Offenses Special Provisions Act § 5 (amending Tanzanian Penal Code provisions on rape).

315. See *id.* § 6.

316. See *id.*; BUCCINA, *supra* note 310, at 11.

317. See Sexual Offenses Special Provisions Act §§ 7, 12; BUCCINA, *supra* note 310, at 11.

318. See Sexual Offenses Special Provisions Act § 21.

319. See Combined Tanzania Report, *supra* note 311, ¶ 49. For example, SOSPA eliminates the requirement that victims provide corroborating evidence if judges are satisfied with a victim’s testimony. See Sexual Offenses Special Provisions Act § 27; see also Scolastica Jullu, *Sexual Violence against Women in Tanzania: A Case Study on the 1998 Sexual Offences (Special Provision) Act No. 4*, in VOICES OF AFRICAN WOMEN: WOMEN’S RIGHTS IN GHANA, UGANDA, AND TANZANIA 117, 123 (Johanna Bond ed., 2005).

320. See Sexual Offenses Special Provisions Act § 5; see also BUCCINA, *supra* note 310, at 13 (“SOSPA revises the definition [of rape] so that it is more precise, if not concise.”).

321. Jullu, *supra* note 319, at 123.

322. See, e.g., Sexual Offenses Special Provisions Act § 12 (amending Tanzanian Penal Code § 139).

323. See Maria Tungaraza, *Women’s Rights and the AIDS Epidemic in Tanzania*, in VOICES OF AFRICAN WOMEN, *supra* note 319, at 301, 311.

324. See, e.g., BUCCINA, *supra* note 310, at v; Jullu, *supra* note 319, at 122.

325. See BUCCINA, *supra* note 310, at v; Jullu, *supra* note 319, at 118, 125–26.

"may exacerbate family related problems,"³²⁶ thus leaving only a handful of dedicated, yet unfunded, private individuals to tackle this issue.³²⁷

iii. The HIV and AIDS (Prevention and Control) Act

The recently enacted HIV and AIDS Prevention and Control Act aims to prevent the spread of HIV, to provide care and treatment for people living with the disease, and to protect the rights of those living with HIV/AIDS.³²⁸ Most importantly, the act bars stigmatization and discrimination based on a person's HIV or AIDS status, or perceived or suspected status.³²⁹ Specifically, the act prohibits any person from denying or restricting any other person their ability "to live anywhere" and their right "to residence, on the grounds of the person's actual, perceived or suspected HIV and AIDS status."³³⁰ In the event of contravention, the act subjects offenders "to a fine of not less than two million shillings or to imprisonment for up to one year or to both."³³¹ Controversially, the act criminalizes the intentional transmission of HIV with a penalty of five to ten years' imprisonment.³³²

iv. Housing-Specific Legislation

Tanzania's domestic legal framework includes several provisions that relate to housing specifically. First, the Unit Titles Act, 2008 is a revolutionary new act that sanctions the division of large buildings into individually owned condominium units,³³³ which could dramatically change the way urban land in Tanzania is developed. The act includes various provisions requiring compliance with local and national building regulations,³³⁴ as well as provisions indicating the joint and several liability of

326. Combined Tanzania Report, *supra* note 311, ¶ 52.

327. See Interview with Anna Holmstrom, Program Officer, UN Population Fund [UNFPA], in Dar es Salaam, Tanz. (May 26, 2010).

328. See HIV and AIDS (Prevention and Control) Act, No. 28 (2008), pmbl. (Tanz.); *Tanzania Adopts HIV Law*, USAID HEALTH POLICY INITIATIVE (USAID), (Aug. 26, 2008), at 1, available at http://www.healthpolicyinitiative.com/Publications/Documents/589_1_TZ_HIV_Legislation_Final_8_26_08.pdf.

329. See HIV and AIDS (Prevention and Control) Act § 31.

330. *Id.* § 30(d)–(e).

331. See *id.* § 32.

332. See *id.* § 47.

333. See Unit Titles Act, No. 16 (2008), pmbl. (Tanz.).

334. See, e.g., *id.* §§ 14, 15.

subsequent purchasers for amounts owed by earlier owners to condominium associations.³³⁵

Second, over the past ten years, Tanzania has made dramatic changes to legislation governing the rental housing market. The Rent Restriction Act, 1984, which regulated landlord-tenant relationships,³³⁶ protected tenants procedurally with respect to the payment of rent³³⁷ and evictions,³³⁸ and required landlords to keep their premises in good repair,³³⁹ among other favorable provisions,³⁴⁰ was amended and eventually repealed in 2005.³⁴¹ In reviewing the act, the Tanzanian parliament indicated in its housing and development policy statements that the act was too pro-tenant and that it interfered with investment in the rental market.³⁴² In the Rent Act's stead, the Land Disputes Settlements Act, 2002³⁴³ and the Land Act, 1999, regulate rental arrangements and disputes, and ultimately

reduce the obligations of landlords and restrict the rights of tenants. For example, a landlord can now evict a tenant (for missing a rental payment, violating the rental agreement, etc.) without having to go through the court[s] . . . , and tenants have also lost the right to apply to the courts for relief.³⁴⁴

Tanzania's legislation provides a starting point for analyzing whether the country is fulfilling its international legal obligations with respect to the right to adequate housing. Tangentially, the domestic framework acknowledges the right in many ways. However, it also leaves substantial gaps in its protection of women and support of their ability to effectively claim that right,

335. *See id.* § 63.

336. *See generally* Rent Restriction Act, No. 17 (1984) Cap. 339 (Tanz.) (repealed 2005).

337. *See, e.g., id.* §§ 21–23 (restricting advance payments of rent to two months and regulating the amount and manner by which rents may be increased).

338. *See, e.g., id.* § 25.

339. *See, e.g., id.* § 35.

340. *See, e.g., id.* §§ 33, 38 (penalty for depriving tenant of service and barring willful annoyance by landlord in order to effect eviction).

341. *See* Written Laws (Miscellaneous Amendment) (No. 2), Act No. 11 (2005), § 30 (Tanz.).

342. *See* MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT, NATIONAL HUMAN SETTLEMENTS DEVELOPMENT POLICY 17, 44 (2002) (Tanz.); Cadstedt, *supra* note 84, at 48.

343. *See* Land Disputes Courts Act, No. 2 (2002) Cap. 216 (Tanz.).

344. Cadstedt, *supra* note 84, at 48.

while the national government continues to implement inadequately any provisions that are comprehensively drafted. Part II investigates these legislative gaps and implementation shortfalls in the context of Tanzania's informal settlements, exploring the major obstacles women encounter in the context of accessing urban housing, as well as the disproportionate challenges they endure in rapidly expanding unplanned settlements.

II. WOMEN'S STRUGGLE TO SECURE ADEQUATE HOUSING IN URBAN TANZANIA

*"For women, housing is beyond shelter."*³⁴⁵

Increasingly, the international human rights community is recognizing that "the causes and consequences of urbanisation for women are, in fact, . . . deeply related to issues of gender."³⁴⁶ This Part documents the difficulties women in Tanzania face with respect to housing in urban areas. Part II.A explores the legal and social barriers that impede women's access to and ability to maintain adequate housing, including discrimination under the law, an entrenched patriarchal culture, pervasive poverty, and a general lack of transparency within government and law enforcement. These key areas of concern emerged from hundreds of interviews conducted with women living in informal settlements across five urban areas. Part II.B then examines the disproportionate impact that the inadequacy of urban housing imposes on women—an impact that results in heightened safety and security concerns, an overall lack of access to water and sanitation, and other pressing problems.

345. United Nations Expert Group Meeting on "The Impact of the Implementation of the Beijing Declaration and Platform for Action on the Achievement of the Millennium Development Goals," Geneva, Switz., Nov. 11–13, 2009, *Urbanisation and Gender: Attention to Gender Equality in Efforts to Improve the Lives of Slum Dwellers: Expert Paper Prepared by Agnes Kabajuni*, U.N. Doc. EGM/BPFA-MDG/2009/EP.9 (Nov. 4, 2009).

346. COHRE, *supra* note 2, at 3. See generally AMNESTY INT'L, *supra* note 7; Kabajuni, *supra* note 345.

A. *Barriers to Women's Access to Adequate Housing in Tanzania*

Before women in Tanzania can begin to grapple with the considerable everyday challenges that arise from life in unplanned settlements, they experience enormous and uniquely gendered obstacles in their efforts to secure adequate housing, both in rural and urban areas. In interviews, many Tanzanian women reported that such obstacles often served as the catalyst for their migration to urban areas; others indicated that these obstacles frustrated their ability to secure adequate housing once they arrived in or during their time in the settlements. Regardless of whether women are migrating from rural areas to escape discriminatory practices or they are struggling to obtain security of tenure in settlements, "[t]he interrelationship between culture, gender and urbanization is a complex one."³⁴⁷

Although women living in informal settlements reported a variety of challenges in securing adequate housing, it is clear that nearly all of them had encountered some form of legal or cultural discrimination, resulting in violations of their international human rights. These discriminatory barriers manifest themselves in virtually every aspect of women's lives, but especially so with respect to housing. In fact, numerous women reported that an inability to secure housing, either to rent or to own, was the biggest challenge they face in their lives.³⁴⁸

While urbanization may be considered "inevitable,"³⁴⁹ urban growth must be managed in a way that ensures women's full realization of their right to adequate housing. In Tanzania, women remain "hostages to patriarchal ideologies," ultimately constituting the "poorest of the poor in urban areas."³⁵⁰ That urban planning frequently "overlook[s] gender issues in access to land, property and housing" only compounds the challenges Tanzanian women face.³⁵¹ The themes below explore the link between these gendered issues and the right to adequate housing.

347. World Urban Forum, Barcelona, Spain, Sept. 13–17, 2004, *Gender, Culture and Urbanisation*, ¶ 41, U.N. Doc. HSP/WUF/2/1 (July 23, 2004).

348. See, e.g., Interview with Representatives, MPLC, *supra* note 179.

349. Interview with Wilberd Kombe, Professor, Ardhi Univ., in Dar es Salaam, Tanz. (May 20, 2010).

350. World Urban Forum, *supra* note 347, ¶ 41.

351. *Id.*

1. Legal Barriers

Across Tanzania, women cited legal barriers as the major impediments to their ability to secure adequate housing. Their frustration with the current discriminatory inheritance scheme was clear, and provisions with respect to divorce and domestic abuse were cited as inadequate. In addition, women, advocates, and academics indicated that there was a widespread lack of knowledge about legal rights among poor women, and that corruption and inefficiency were common in the Tanzanian legal system, especially with respect to women's claims. Women cited these legal gaps and failings as particularly problematic in their ability to maintain safe, adequate housing for them and their children.

a. Discriminatory Inheritance Laws

Overwhelmingly, the country's discriminatory inheritance laws emerged as a fundamental obstacle in women's efforts to maintain housing in both rural and urban areas. When asked why they moved to cities, women frequently reported that they had been chased off land by relatives.³⁵² However, despite serious calls for inheritance reform from the Tanzanian Law Reform Commission in the mid-1990s, which recommended the adoption of a uniform inheritance system, little has been done.³⁵³

Women interviewed reported that their in-laws or other male family members had seized all or an unequal share of their

352. See, e.g., Interview with HIV-Positive Women, Juhudi Women's Grp., in Moshi, Tanz. (May 17, 2010). As discussed, customary and Islamic law, the most commonly applied inheritance systems, exclude women from inheriting property equally "thus impoverish[ing] women and leav[ing] their survival at the mercy of men," Ezer, *supra* note 213, at 601; see also HELPAGE INT'L TANZANIA, NGO THEMATIC SHADOW REPORT ON OLDER WOMEN'S RIGHTS IN TANZANIA 10 (2008). Upon her husband's death, a widow experiences enormous pressure from the deceased's family to leave the matrimonial home, a "situation [that] leaves many women in an unacceptable state of social and economic insecurity and dependence, with little to no autonomy over their housing situation." COHRE, *supra* note 2, at 30–31.

353. See LRC, *supra* note 206, at 12, 62–70; see also Interview with Adam Mambi, Deputy Exec. Sec'y, Law Reform Comm'n, in Dar es Salaam, Tanz. (May 25, 2010). In fact, despite government announcements that a white paper would be prepared on the issue in response to pressure from an NGO coalition, it appears that no action has been taken. When pressed for answers about what further action advocates could take to push for reform, an LRC representative responded that "basically there is little left to do." *Id.*

property upon their husband's deaths,³⁵⁴ that only men could be appointed as administrators of their husband's estates,³⁵⁵ and that they suffered disinheritance because they were not the first of their husband's polygamous marriages.³⁵⁶ Halima Y., in Arusha, reported that, upon her husband's death, she returned to her parents' home, only to find that her brother was occupying it in the entirety. There was no will, and her brother, "because he is a man, got a bigger portion of the house."³⁵⁷ Her brother has claimed ten rooms of their father's thirteen-room home in an Arusha settlement; in two of the remaining rooms she cares for three grandchildren, and the third room she rents out.³⁵⁸

Widows in Morogoro reported similar experiences. One woman's in-laws told her that, because her first-born son and other young children were staying at the marital property and she refused to be inherited by her husband's younger brother, she "had to leave with nothing."³⁵⁹ It is also often the case that widows are chased by their own children who have inherited the marital property.³⁶⁰ Aurelie M., of Morogoro, explained that "women are not entitled to inherit land; that right is for men." She noted that women who bore no children might find themselves in an even worse position, indicating that families will see "you as having no value . . . , using their resources for no

354. See, e.g., Interview with Members, Fed'n of the Urban Poor [FUP], in Kurasini, Tanz. (May 17, 2010).

355. See Interview with Jane Magigita, Legal Officer, Women's Legal Aid Centre [WLAC], in Dar es Salaam, Tanz. (May 20, 2010).

356. See, e.g., Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352; Interview with Asha I., Client, AWLAHURIC, in Morogoro, Tanz. (May 17, 2010).

357. Interview with Halima Y., in Arusha, Tanz. (May 20, 2010). It is Halima's understanding that Islamic inheritance law stipulates that "men should get more with the assumption that women will get married. That is why my brother gets more so he can take care of me. But my brother is greedy." She also reported that one of her daughters had suffered under the inheritance laws when her land was taken by her husband's family upon his death. *Id.*

358. See *id.* Halima's brother has told her that "he is the owner and that the house . . . should go to his children" upon his death; however, Halima, with the help of the Arusha Women's Legal and Human Rights Information Center, has written a will. According to her, "[b]oth men and women are equal, so I will divide my property equally between my sons and daughters." *Id.*; see also Interview with Margaret K., Women Wake Up [WOWAP], in Dodoma, Tanz. (May 20, 2010) (noting that most people do not know how to write a will).

359. Interview with Isabela K., in Morogoro, Tanz. (May 17, 2010) ("It just came automatically that the first-born son inherits the house.").

360. See Interview with Aurelie M., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010).

reason,” and resulting in near-certain expulsion from the matrimonial home.³⁶¹

Although often perceived as a rural issue, widows' and girls' disinheritance is part of a legally imposed framework that reaches deep into urban areas and firmly entrenches male dominance. Maria J. Mwaffisi, Permanent Secretary of the Ministry of Community Development, Gender and Children, cites urban poverty as an exacerbating factor in inheritance conflicts, where families are pushed not to “look to what [they] can do, but [to] what [they] can inherit.”³⁶² Inheritance reform is imperative—especially in urban areas where competition for land and housing is stiff and the female population is growing—to undermine an entrenched hierarchy that subordinates women's interests. According to Tabitha Siwale, Executive Director of WAT-Human Settlements and a former Member of Parliament, “It is in the interest of men to use customary law because it gives them power. They are scared that if they agree [that] land is for husband and wife, then the land will be taken by the wife's new husband [upon the first husband's death].” She calls for broad change in the nation's inheritance laws, indicating that “[w]omen finally have the right to own land” via the Land Acts, but that women still put their husband's names on land titles “because they don't think they can really own land themselves,”³⁶³ a belief stemming from discriminatory inheritance laws.

Legal scholar Chris Maina Peter sums up the intersection of Tanzanian “culture” and human rights:

Since 1993 and the Vienna Conference, there [has been] general agreement that all human rights are the same—interdependent and indivisible. Custom and culture [are an] attempt to violate human right[s]. I believe that there cannot be exceptions to respecting human rights. You can have your

361. *Id.* (“If you don't bear a child, the chances of being chased are high—very high.”).

362. Interview with Maria J. Mwaffisi, Permanent Sec'y to the Ministry of Cmty. Dev., Gender and Children, in Dar es Salaam, Tanz. (May 24, 2010).

363. Interview with Tabitha Siwale, Exec. Dir., WAT-Human Settlements, *supra* note 182.

religion, [b]ut custom and values should not encroach on human rights.³⁶⁴

Clearly, Tanzania's patriarchal culture and its inheritance frameworks are mutually enforcing. Human rights principles may reject culture as a basis for subordinating women, but in this case the law condones that subordination.

b. Fraudulent Mortgages and Unequal Ownership

Despite legal requirements that spouses must disclose their marital status when applying for mortgages, Tanzanian women reported that they had been the victims of mortgage-related fraud, often resulting in eviction from their homes. Advocates acknowledged that the intentions underlying the consent clause were well-meaning, but said that it is "dangerous" because men sometimes bring "fake" wives with them to get loan approval.³⁶⁵ Additionally, Jina, a resident of Arusha, told interviewers that her "husband sold our house secretly and didn't inform me." In short, he had taken a loan, "couldn't repay it, was harassed by the loan holder, and had to sell the house to repay the loan." Upon filing a legal complaint, she was told to find the new owner of the home so that the court could discuss the matter further with him. Although her case was pending for two years, she recently learned that she has lost and will be evicted from her home; she has no idea where she will go.³⁶⁶ Stories like Jina's were widespread, and advocates predict that they will only become more common in response to the recent mortgage-consent clause amendments.³⁶⁷

c. Shortfalls in Domestic Violence and Divorce Provisions

Gaps in laws on domestic violence and divorce universally were reported as factors blocking Tanzanian women from accessing and maintaining adequate housing. According to the Centre on Housing Rights and Evictions ("COHRE"),

364. Interview with Chris Maina Peter, Professor, Univ. of Dar es Salaam Sch. of Law, in Dar es Salaam, Tanz. (May 18, 2010).

365. Interview with John Materu, Advocate, AWLAHURIC, in Arusha, Tanz. (May 21, 2010).

366. Interview with Jina, Client, AWLAHURIC, in Arusha, Tanz. (May 21, 2010).

367. See *supra* note 286 and accompanying text.

[V]ictims of domestic violence face the stark 'choice' of leaving the security of their home or being beaten by a partner. In many cases, victims of domestic violence have difficulty accessing alternative housing because of an abhorrent lack of domestic violence shelters, transitional housing programmes, and public or market rate housing which is affordable to poor women.³⁶⁸

These problems are especially acute in Tanzania. A 2008 CEDAW shadow report presented by a coalition of NGOs working on this issue indicates that violence against Tanzanian women is "pervasive" and that it "is not recognized as a serious problem that needs serious government attention."³⁶⁹ Most problematic is Tanzania's lack of legislation specifically criminalizing domestic violence and marital rape.³⁷⁰

Compounding this issue is Tanzania's Law of Marriage Act, which requires an attempt at reconciliation, accompanied by a reconciliation certificate, before a divorce will be granted.³⁷¹ In the few instances where a woman does report domestic violence to the police, she is "typically advised to solve the matter at the family level" and serious efforts at prosecution are rarely forthcoming.³⁷² In such cases, or when a woman hopes to obtain a divorce because of violence, she must face her abuser and attempt reconciliation,³⁷³ which often results in cases being dropped.³⁷⁴ AWLAHURIC advising attorney John Materu asserts

368. COHRE, *supra* note 2, at 34–35; *see also* Interview with Christine Mwanukuzi-Kwayu, Nat'l Program Officer, UNFPA, in Dar es Salaam, Tanz. (May 26, 2010).

369. WLAC, TANZANIA NON GOVERNMENTAL ORGANIZATIONS' SHADOW REPORT TO CEDAW: THE IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 22 (2008).

370. *See id.* at 23; Interview with Adam Mambi, Deputy Exec. Sec'y, Law Reform Comm'n, *supra* note 353.

371. *See* Law of Marriage Act, No. 5 (1971) Cap. 335 § 101 (Tanz.). The Law of Marriage Act creates marriage conciliatory boards to preserve the traditional informal dispute resolution system. Going before a board is a prerequisite to petitioning for divorce before a court. *See* Calaguas, *supra* note 289, at 499–500, 511. This endangers women as they must voice discontent and publicly disgrace their husbands before they can be granted a divorce, and they could be abused or killed in the meantime.

372. WLAC, *supra* note 369, at 23; Interview with Friederike Amani Paul, Special Assistant to the Representative, UNFPA, in Dar es Salaam, Tanz. (May 26, 2010).

373. *See* Interview with Representatives, Mkombozi, in Moshi, Tanz. (May 18, 2010) ("It is very difficult to talk about [domestic violence] while trying for reunification. It is difficult to face a man and tell him what he is doing is wrong.").

374. *See* Interview with John Materu, Advocate, AWLAHURIC, *supra* note 365.

that the reconciliation system fails women, and as a result, “men go back to beating.”³⁷⁵

Women also widely acknowledged that they are more likely to be evicted from their homes upon divorce. Not only is it hard for women to prove their contributions to their marriages, which is required for them to retain a share of the marital property, but Tanzanian women also have difficulty enforcing judgments that award them housing.³⁷⁶ Husbands who commit fraud are not unusual. For example, Rukia S., in Dar es Salaam, said that, “[a]fter the judgment was made, my husband found another person to claim that it [was] his house. This third party got an advocate and is now claiming [the home].”³⁷⁷ Families renting housing experience similar complications upon divorce; not only is it “typical in a divorce that a man will keep the house,” but “if it is rented, the man is recognized as the renter, so he can stay.”³⁷⁸ Sophia M., also in Dar es Salaam, reported that she “used to live in a rented house,” but “had to leave” with her children now that her husband “is married to another woman . . . and doesn’t know anything about my life at all.”³⁷⁹ Still other women going through the divorce process experienced problems with family members and housing. One woman at House of Peace, Tanzania’s only domestic violence shelter, encouraged her husband to come for reconciliation so that she could pursue a divorce. He refused to come, and her parents and other relatives evicted her, refusing to bear the burden of supporting her while she sought legal action; she eventually discovered that her husband had moved in with her family.³⁸⁰ Just as in domestic

375. *Id.*

376. *See, e.g.*, Interview with Rukia S., Client, TAWLA, in Dar es Salaam, Tanz. (May 19, 2010). Upon dissolution of marriage, the Law of Marriage Act allows courts to divide assets jointly acquired by the couple in marriage. Law of Marriage Act, No. 5 (1971) Cap. 335 § 60(b) (Tanz.). Yet, courts are still reluctant to equally divide marital properties among husband and wife, and they give preference to the spouse who produces income, most often the husband. *See Calaguas, supra* note 289 at 501, 507.

377. Interview with Rukia S., Client, TAWLA, *supra* note 376.

378. Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc’y, in Dar es Salaam, Tanz. (May 21, 2010).

379. *Id.*

380. *See* Interview with Anonymous Client No. 5, House of Peace, Dar es Salaam (May 26, 2010).

violence cases, police take insufficient action in many cases,³⁸¹ and in others a lack of enforcement of favorable judgments leaves women without recourse.³⁸²

d. General Inability to Access to Justice

*"[A]ccessing the law for the poor is a nightmare. The same could be said for the poor of Tanzania."*³⁸³

Tanzanian women repeatedly indicated to the delegation that they had encountered, or knew other women who had encountered, obstacles in accessing justice when it came to housing-related issues. Not surprisingly, the delegation learned that women experience problems ranging from a lack of legal knowledge about their rights and how to claim them to bribery, corruption, and inefficiency throughout the legal system.

Primarily, women's lack of legal knowledge impedes their ability to secure and maintain adequate housing in both rural and urban areas.³⁸⁴ Women repeatedly told the delegation that, in order for discriminatory laws to change, first "it is important for women to know the laws."³⁸⁵ Some women recognized Tanzania's progressive laws with respect to women's land ownership and divorce; however, they believed generally that "the people are not aware" of these laws.³⁸⁶ Despite reports indicating that rural women have more difficulties than urban women in gaining entry to the legal system, MP Philemon

381. See, e.g., Interview with Anonymous Client No. 11, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010) (noting that police forced husband to let woman live in house, but only for two days).

382. See, e.g., *id.*; see also Calaguas, *supra* note 289, at 496, 508–09 (discussing child maintenance requirements, which are largely ineffective, long delayed, and rarely enforced).

383. Chris Maina Peter, *The Contribution of the Court of Appeal of Tanzania in the Maintenance and Safeguarding of Rule of Law and Human Rights*, in *LAW & JUSTICE IN TANZANIA: QUARTER OF A CENTURY OF THE COURT OF APPEAL* 237, 261 (Chris Maina Peter & Helen Kijo-Bisimba eds., 2007).

384. See, e.g., Interview with Members, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010) (discussing women's, especially widows' lack of legal knowledge).

385. Interview with Lawyers & Paralegals, TAWLA, *supra* note 286; see also Interview with Asungukye M., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010).

386. Interview with Ludovicka L.S. Tarimo, Project Dev. Specialist/Gender Advisor, USAID, in Dar es Salaam, Tanz. (May 27, 2010).

Ndesambura of Moshi indicated that it was also difficult for women living in informal settlements who simply do not know they can go to court.³⁸⁷ “Ignorance and fear” were cited as major obstacles, as was a general lack of knowledge about how to negotiate the legal system.³⁸⁸ Preska N., of Morogoro, expanded:

Only a few [women] go to the court, because [they] are not aware of their rights and even if they were, it is difficult for them to get anything. Most of them just [leave] when they are chased away and try to find a place to live. Most of the time street leaders will refer them to the court, the city tells women to go to the court, and . . . some men will drag it out.³⁸⁹

A severe lack of access to the media exacerbates the problem, especially in rural areas. Overall, 40% of women have no access to mass media, while men, who are more mobile, often take radios and batteries with them or lock them away upon leaving the house.³⁹⁰ This lack of knowledge—and access to knowledge—is deeply intertwined with cultural issues and with government’s failure to publicize and promote legal awareness.

Additional obstacles to women seeking justice for housing-related issues include bribery and corruption within the justice system. Reports of such issues are not uncommon among poor women around the world,³⁹¹ who often have fewer resources available and are more vulnerable than men, as is the case in Tanzania. In interviews, many Tanzanian women reported that rampant corruption prevents them from bringing legal complaints, or at least from bringing effective legal complaints. Fatma Toufiq, Director and Paralegal Coordinator of WOWAP in Dodoma, summed up the situation: “[P]olice, magistrates, even

387. Interview with Philemon Ndesambura, Member of Parliament, in Moshi, Tanz. (May 18, 2010).

388. Interview with Cristina, Member, HIV Grp., FUP, in Daraja Mbili, Tanz. (May 19, 2010).

389. Interview with Preska N., Client, MPLC, in Morogoro, Tanz. (May 17, 2010).

390. See Interview with Sara Cameron, Chief of Commc’ns, UNICEF, *supra* note 183.

391. See, e.g., AMNESTY INT’L, *I CAN’T AFFORD JUSTICE: VIOLENCE AGAINST WOMEN IN UGANDA CONTINUES UNCHECKED AND UNPUNISHED* 34–43 (2010) (discussing inadequate policing, bribery, and poverty as barriers to accessing justice in Uganda); Gary Haugen & Victor Boutros, *And Justice for All: Enforcing Human Rights for the World’s Poor*, FOREIGN AFF., May/June 2010, at 51, 52–54 (discussing corruption, lack of legal officers, and lack of legal knowledge in Kenya and Zambia, among other places).

lawyers, are often bribed, so only people with money get any justice. And it's often men who have the money, so justice always falls in their favor."³⁹²

This type of bribery can take many forms. For example, the common practice at village land boards, according to Martha Lyimo, a paralegal coordinator for AWLAHURIC, is to charge a reasonable fee (e.g., TSh. 500) to open a case, but then to encourage litigants to "pay something that is very expensive with no receipt." Lyimo refers to these payments as "kind of a bribe" to "facilitate" the proceedings, often in amounts of around TSh. 50,000.³⁹³ One woman in Dar es Salaam reported that while she was in the hospital giving birth to a child who subsequently died, her husband beat her other children. She went to the police, but her husband "gave them some money." In her words, the problem with the justice system is "bribery. They are all colluding."³⁹⁴ Finally, lawyer John Materu reported that witnesses in land-grabbing cases are paid to speak against wives claiming ownership, and that "it is difficult to get people to court [to testify on behalf of women] because it is expensive" to pay them.³⁹⁵ Legal representation appears to temper these practices,³⁹⁶ but can be difficult to afford and may be impossible to find due to lawyer shortages.³⁹⁷

Coupled with widespread reports of judicial and police corruption, the delegation also documented numerous stories of inefficiency, as well as general lack of enforcement of laws and

392. Interview with Fatma Toufiq, Dir. and Paralegal Coordinator, WOWAP, in Dodoma, Tanz. (May 20, 2010).

393. Interview with Martha Lyimo, Coordinator and Paralegal, AWLAHURIC, in Arusha, Tanz. (May 21, 2010).

394. Interview with Anonymous Client No. 6, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010). Similarly, another woman in Dar es Salaam told the delegation, "Whenever I take the initiative to take my husband to the police, nothing happens because he has money. When he gets home he hits me again. So I decide to do nothing." Interview with Fatuma J., Member, FUP, in Dar es Salaam, Tanz. (May 17, 2010).

395. Interview with John Materu, Advocate, AWLAHURIC *supra* note 365.

396. *See* Interview with Martha Lyimo, Coordinator and Paralegal, AWLAHURIC, *supra* note 393.

397. *See* Interview with Rukia S., Client, TAWLA, *supra* note 376; Haugen & Boutros, *supra* note 391, at 53 ("The average person in the developing world has never met a lawyer in his or her life."); 2009 *Human Rights Report: Tanzania*, U.S. DEP'T OF STATE (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135980.htm> (noting that, as of 2009, there were approximately 1000 lawyers registered to practice in Tanzania, of which 80% practiced in Dar es Salaam, Arusha, and Mwanza).

judgments. Flora Masoy, coordinator of the Morogoro Paralegal Centre, and Juvenal Rwegasira, a lawyer for the Women's Legal Aid Centre in Dar es Salaam, discussed these problems openly with interviewers. Rwegasira remarked that, for example, in divorce cases, "The court will make a decision [about division of marital assets], and the woman can go to court for enforcement."³⁹⁸ However, according to Masoy, "To have a judgment enforced, a woman is told, 'You go look for your husband and bring him here [to court].'"³⁹⁹ In a recent case, in which Masoy was assisting a rape victim, the defendant failed to show up for the hearing; the victim "was told to find her rapist."⁴⁰⁰ As Masoy put it: "Justice delayed, justice denied."⁴⁰¹ Rwegasira echoed concerns about these procedural problems, adding that courts do not take seriously failures to adhere to judgments and that the police often decline to pursue investigations where cases are particularly complicated.⁴⁰² Professor Robert Mhamba says the latter problem is a direct result of inadequate police salaries, which make it "difficult for policemen to collect good evidence because they will be paid not to find anything. Then, they cannot bring charges because they have no evidence."⁴⁰³ These issues, along with excessive delays in hearings,⁴⁰⁴ a lack of legal knowledge among lower court magistrates,⁴⁰⁵ expensive court fees,⁴⁰⁶ and the fact that court documents are issued in English when the primary language is Swahili,⁴⁰⁷ effectively bar women from seeking justice through legal channels. Simply put, "Sometimes because of court

398. Interview with Juvenal Rwegasira, Legal Officer, WLAC, in Morogoro, Tanz. (May 18, 2010).

399. Interview with Flora Masoy, Coordinator, MPLC, *supra* note 30.

400. *Id.*

401. *Id.*

402. See Interview with Juvenal Rwegasira, WLAC, *supra* note 398.

403. Interview with Robert Mhamba, Professor, Inst. of Dev. Studies, Univ. of Dar es Salaam, *supra* note 180.

404. See, e.g., Interview with Anonymous Client No. 4, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010); Interview with Asha I., Client, AWLAHURIC, *supra* note 356.

405. See Interview with Jane Magigita, WLAC, *supra* note 355.

406. See Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384.

407. See Interview with Christine Mwanukuzi-Kwayu, Nat'l Program Officer, UNFPA, *supra* note 368.

procedures, women become exhausted with the system and decide not to even take the matter to court."⁴⁰⁸

2. Cultural Barriers

Q: "Are you happy that your husband makes the decisions?"

*A: "I'm not happy at all."*⁴⁰⁹

Deeply intertwined with these legal barriers are cultural issues that block women from fully realizing their right to adequate housing. Many of these issues have been cited as fueling urbanization by pushing women to migrate to urban areas in an effort "to escape from something which threatens to harm them."⁴¹⁰ Kellen Mngoya, secretary general of HAFOTA, a Tanzanian NGO lobbying for the prioritization of housing issues, reported that there are more women than men living in unplanned settlements,⁴¹¹ and that "the patriarchal system makes access to housing for women very difficult. Anything can happen with death, divorce, and inheritance, so they are vulnerable."⁴¹² Not only do problems such as domestic violence, inheritance, and HIV/AIDS discrimination push women into urban areas, but these problems are also pervasive there.⁴¹³ Upon attempting to secure adequate housing in those urban areas, women face further obstacles, including discriminatory landlords, cultural resistance to joint titling among both men and women, and the simple fact that their voices are continually silenced in the

408. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384; *see also* Peter, *supra* note 383, at 260 ("Lack of legal and civic education in general and other factors such as poverty and language of the courts of law have made justice a luxury to the majority of Tanzanians.").

409. Interview with Pendo J., Dodoma Inter-African Committee [DIAC], in Dodoma, Tanz. (May 20, 2010).

410. COHRE, *supra* note 2, at 13.

411. *See* Interview with Kellen Mngoya, Sec'y Gen., Habitat Forum Tanz. [HAFOTA], in Dar es Salaam, Tanz. (May 25, 2010) (noting that "the cumbersome procedure for obtaining plots and the cost, plus the responsibilities of women . . . and women's lack of education" push women to live in unplanned settlements).

412. *Id.*; *see also* Interview with Gloria Matunda, Credit Officer, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010) (indicating that "75% of women [who are Habitat for Humanity microloan clients in urban Dar es Salaam] have children and no husband").

413. *See generally* COHRE, *supra* note 2; *see also* Interview with Dean and Faculty, Univ. of Dar es Salaam Sch. of Law, in Dar es Salaam, Tanz. (May 24, 2010) (noting the lack of social support networks in urban areas).

home.⁴¹⁴ In order for women to fully realize their right to adequate housing,⁴¹⁵ it is crucial that these cultural issues be addressed.⁴¹⁶

a. Entrenched Patriarchal Norms with Respect to Titling and Land

Although “formal legal rights protecting women’s ownership of and access to land in Tanzania are strong” in comparison to countries in the same region, “cultural inhibition[s] against women holding property in their own name or even jointly with their husbands”⁴¹⁷ continue to interfere with women’s security of tenure both during and after marriage. During interviews it was clear that, with respect to land and titling, “the law itself is not discriminatory; the cultural practices [are] the problem.”⁴¹⁸ Setting aside the debate on the merits of titling programs,⁴¹⁹ women across Tanzania expressed both outrage at and acceptance of a culture that discourages them from holding title to housing and land.

On one hand, J.M. Lusagga Kironde, a land rights expert at Dar es Salaam’s Ardhi University, indicated that, despite advancements for women in the 1999 Land Acts, “the women themselves don’t want the property in their names. . . . [Tanzania] need[s] a change in the culture because there is a perceived lack of trust or commitment when a woman wants her name on the title.”⁴²⁰ During a group interview of HIV-positive

414. See Interview with Kellen Mngoya, Sec’y Gen., HAFOTA, *supra* note 411 (“When I said patriarchal system, I don’t just mean men. I also mean women, because many really believe in this.”); Interview with Rahema, Deputy, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010).

415. See Interview with Dean and Faculty, Univ. of Dar es Salaam Sch. of Law, *supra* note 413 (“[W]hen we talk about appropriate accommodation, we are not just talking about technicalities—we are talking about social problems.”).

416. See Interview with Aron Talika, Town Planner, Arusha Mun., in Arusha, Tanz. (May 19, 2010) (noting that women’s ownership is “not a priority”).

417. AMANDA ELLIS ET AL., GENDER AND ECONOMIC GROWTH IN TANZANIA: CREATING OPPORTUNITIES FOR WOMEN 50–51, 57 (2007).

418. Interview with Ludovicka L.S. Tarimo, Project Dev. Specialist/Gender Advisor, USAID, *supra* note 386.

419. See, e.g., HERNANDO DE SOTO, THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE (2000); Geoffrey Payne et al., *The Limits of Land Titling and Home Ownership*, 21 ENV’T & URBANIZATION 443 (2009).

420. Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., in Dar es Salaam, Tanz. (May 27, 2010).

women in Moshi, interviewees agreed: "When women get money they don't respect men; [men] want women's respect and need her to take care of the household."⁴²¹ Thus, because of cultural concerns, women themselves resist joint titling efforts, which is a major contributing factor to the "very low percentage of women who own land."⁴²² Taking a hands-off approach to the issue, representatives from the government's urban land regularization program in the Ministry of Lands, Housing and Human Settlements Development stated, "We don't force both male and female names on the title. It is their decision."⁴²³

On the other hand, the overwhelming majority of the hundreds of women who met with the delegation expressed frustration and resignation at the fact that "men dominate the system."⁴²⁴ In a group meeting at Kurasini, women members of the Federation of the Urban Poor ("FUP") told interviewers that Tanzanian women are allowed to own homes, but that cultural norms meant that titles and residential licenses are almost always kept solely in their husbands' names,⁴²⁵ causing further difficulties upon their husband's deaths, when applying for loans, and upon divorce, especially in polygamous marriages. The attitude of men comes down to a belief that they "worked hard every day to pay for [the housing or land]," so it belongs to them.⁴²⁶ Staff attorneys at TAWLA said that their biggest daily challenges arise out of the "patriarchal system," which translates into families including only husbands' names on land registration papers—even where women are earning the money to buy properties⁴²⁷—a move that ensures the uncertainty of women's tenure. For example, Rukia S., in Dar es Salaam, said that the fact that her husband's name alone was on their

421. Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352.

422. Interview with Agnes Namuhisa, Acting Dir. of Cooperation Dev., Tanz. Fed'n of Co-ops., in Dar es Salaam, Tanz. (May 27, 2010).

423. Interview with Bertha Mlonda, Principal Town Planner, Office of Settlements Regularisation, Ministry of Lands, Hous. and Human Settlements Dev., in Dar es Salaam, Tanz. (May 25, 2010).

424. Interview with Tim Ndezi, Exec. Dir., CCI, in Dar es Salaam, Tanz. (May 17, 2010).

425. See Interview with Members, FUP, *supra* note 354; Interview with Joha, Client, TAWLA, in Dar es Salaam, Tanz. (May 19, 2010) (noting that "it is just the decision of the husband to write his name [on the title]").

426. Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., in Kurasini, Dar es Salaam, Tanz. (May 17, 2010).

427. Interview with Lawyers & Paralegals, TAWLA, *supra* note 286.

registration papers enabled him to “[take] the house and everything in it” upon their separation.⁴²⁸

Women who have their names on land titles or licenses expressed the difficulty of asking their husbands for such a concession and said that most Tanzanian men would not agree to change the title to include their wives’ names after they have bought property.⁴²⁹ Tausi H., in Dar es Salaam, told interviewers that it was not difficult to change the name on the title, but said that, “when women raise their voices to put on the name, then patriarchal society makes it difficult because they don’t like when women raise their voices to challenge.”⁴³⁰ Other women confirmed this view, indicating that “men like to be the owners of land; they like to control the women. Women are supposed to be dumb. . . . Even if [a woman] is not satisfied with the way things are, she just . . . stay[s] in the house; there is no alternative.”⁴³¹ Liz K., also in Dar es Salaam, said that men would be shamed if they included their wives on titles: “The relatives and friends will laugh at him and say he is not strong.”⁴³²

Finally, some women also expressed misgivings about the fact that the government only requires one name on the title. As a result, cultural norms dictate that “it’s just the husband” whose name appears on the title, thus complicating women’s attempts to “prove that [they] are the [wives]” under inheritance laws.⁴³³ In contrast, it seems that, when women are applying for loans, “there is a place for the husband to sign,” which means that both spouses are documented during the loan process.⁴³⁴

During a group interview with members of the Kisamaja Women Housing Cooperative Society, one of several organizations partnering with UN-HABITAT through TAWLAT to build housing for poor urban women and their families, one woman expressed a desire to “have my name alone on this new

428. Interview with Rukia S., Client, TAWLA, *supra* note 376.

429. See Interview with Zuhura, Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

430. Interview with Tausi H., Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

431. Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 378.

432. Interview with Liz K., Member, Kisamaja Women Hous. Coop. Soc’y, in Dar es Salaam, Tanz. (May 21, 2010).

433. Interview with Tausi H., Client, Habitat for Humanity, *supra* note 430.

434. *Id.*

apartment co-op. I want to own the house. I don't want my husband to be involved because I am not comfortable."⁴³⁵ Succinctly summing up the problems that arise from this cultural resistance to joint titling, she said, "The wife is responsible for the man, and the man is responsible for the family, but [the men] don't always [fulfill] their responsibility."⁴³⁶

Furthermore, as discussed, Tanzania's marital and discriminatory inheritance laws deeply impact the lives of women across the country; however, equally troubling are cultural norms that encourage and condone property grabbing by relatives upon divorce, polygamy-related conflict, a husband's death, or other related events. Property grabbing often leaves women with no choice but to migrate to informal settlements, where they may or may not be able to afford basic shelter. One widow from Morogoro, indicated that being divorced or widowed made it more likely that women would live in informal settlements:

Most of the women [who experience property grabbing] are poor. In most cases, when a woman is divorced the man won't be willing to give her a share of the matrimonial property; the relatives of the husband of the widow will try to take the land. Their easiest option is to go to the cities.⁴³⁷

This reality was confirmed by widows in various regions, including Marina N. from Dodoma, who reported that her husband's family had grabbed her land and her children, spurring her move to an informal settlement closer to town, and Kulwaa H., who moved to Dodoma to avoid being inherited by her husband's brother.⁴³⁸

Property grabbing can take many forms. Ward officers in one of Arusha's longest-established informal settlements, Daraja Mbili, remarked that property grabbing and widow chasing are very common among local residents,⁴³⁹ describing the experience

435. Interview with Kidala R., Member, Kisamaja Women Hous. Coop. Soc'y, in Dar es Salaam, Tanz. (May 21, 2010).

436. *Id.*

437. Interview with Isabela Katungutu, Counselor and Founding Member, MPLC, in Morogoro, Tanz. (May 18, 2010).

438. See Interview with Members, WOWAP, in Dodoma, Tanz. (May 20, 2010).

439. As of May 2010, ward officers reported that ten women had already "reported to the ward office that they were evicted from their land after their husband died." Interview with Representatives, Daraja Mbili Ward Offices & FUP, in Arusha, Tanz. (May 19, 2010).

as “very violent Sometimes she is forced out by one family member, sometimes by the whole family. Sometimes women kick off other women from the land. There is never assistance from the police to return the woman to the land.”⁴⁴⁰ In some cases, the original owner of land may chase a widow upon her husband’s death, claiming that she has no right to the home.⁴⁴¹ Young widows are equally impacted, and upon remarriage, a young widow’s husband’s family may chase her from the original marital home despite the fact that she is paying rent.⁴⁴² Children of deceased parents also experience property grabbing,⁴⁴³ and single women may even face property grabbing perpetrated by their own siblings.⁴⁴⁴ One anonymous interviewee in Arusha described the insecurity of living as a single woman in a small house on her family’s land: her brother argues that “a girl shouldn’t be able to own property,” and he has warned her that, upon her mother’s death, he will chase her.⁴⁴⁵ Moreover, just as a husband’s or parent’s death creates an opportunity to seize property, polygamous marriages create a similar, yet often even more complex, “scramble for property” upon such major life events.⁴⁴⁶

b. Pervasive Violence against Women

*“Shelter is also a women’s issue. Women who are economically dependent on their partner or their family are often faced with the dilemma of being abused or being homeless.”*⁴⁴⁷

440. *Id.*

441. *See, e.g.*, Interview with Sara, Client, AWLAHURIC, in Arusha, Tanz. (May 21, 2010). Sara, a widow from Arusha and mother of four, reported that, upon her husband’s death, the original owner of his property “told [her] that [she] had no right to it. He forcibly took the land and cut [her] hand with a machete.” *Id.*

442. *See* Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439.

443. *See, e.g.*, Interview with Martha & Apallelo, Clients, AWLAHURIC, in Arusha, Tanz. (May 21, 2010).

444. *See, e.g.*, Interview with HIV-Positive Women, Juhudi Women’s Grp., *supra* note 352.

445. Interview with Anonymous Client No. 4, House of Peace, *supra* note 404.

446. Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439.

447. Special Rapporteur on Violence against Women, Its Causes and Consequences, *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women, Addendum: Economic and Social Policy and Its Impact on Violence against Women*, Comm’n on Hum. Rts, ¶ 70, U.N. Doc. E/CN.4/2000/68/Add.5 (Feb. 24, 2000)

Violence against women has a direct impact on women's housing.⁴⁴⁸ Former UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari reported in a 2003 study that "domestic violence is a key cause of women's homelessness and presents a real threat to women's security of person and security of tenure. Many women continue to live in violent situations because they face homelessness if they resist domestic violence."⁴⁴⁹ Over the past decade, the UN has increasingly recognized that

[w]omen who are economically dependent on their partner or their family are often faced with the dilemma of being abused or being homeless. Lack of shelter facilities forces up to thirty per cent of women who have fled domestic violence to return to their homes and thus to violence . . . Especially when they live in remote areas, it may be very difficult for women to seek help at shelters.⁴⁵⁰

In fact, this lack of services in rural areas "may force [women] to flee their homes in search of safety and better opportunities for themselves and their children."⁴⁵¹ This is certainly the situation in Tanzania, where "[i]ntimate partner violence is highly prevalent" and often includes rape.⁴⁵²

As discussed above, Tanzania's domestic legislation is severely lacking provisions criminalizing domestic violence.⁴⁵³ Underlying this legal gap is a culture that seems to condone

(by Radhika Coomaraswamy) [hereinafter Special Rapporteur on Violence against Women].

448. See, e.g., COHRE, A PLACE IN THE WORLD: THE RIGHT TO ADEQUATE HOUSING AS AN ESSENTIAL ELEMENT OF A LIFE FREE FROM DOMESTIC VIOLENCE 9 (2010).

449. Kothari 2003/55, *supra* note 168, ¶ 27.

450. Special Rapporteur on Violence against Women, *supra* note 447, ¶ 70; see also COHRE, *supra* note 2, at 34–35 (noting the broad lack of alternative housing programs available to women around the world).

451. COHRE, *supra* note 2, at 35.

452. See USAID, GENDER-BASED VIOLENCE IN TANZANIA: AN ASSESSMENT OF POLICIES, SERVICES, AND PROMISING INTERVENTIONS 10–11 (2008), available at http://pdf.usaid.gov/pdf_docs/PNADN851.pdf ("Many in Tanzania view rape as acceptable behavior for men and boys under various circumstances. . . . Reasons cited for rape included men not having enough money to convince women to marry or have sex with them, hormones, girls'/women's acceptance of gifts from men, and alcohol use (by both women and men). . . . Although not generally seen as rape, young women especially may be coerced into having sex by being lured by potential economic gains, including money and gifts.").

453. See *supra* Part II.A.1.c.

violence against women almost universally. Interviews with Tanzanian women confirmed both this reality and the causal relationship between domestic violence and the precariousness of their individual housing circumstances both in rural and urban areas.⁴⁵⁴

According to the Tanzania Commission on Human Rights and Good Governance (“CHRAGG”), a quasi-governmental body charged with promoting and protecting human rights, domestic violence is one of the most pressing problems women in Tanzania face.⁴⁵⁵ Women repeatedly expressed to the delegation that the desire to escape domestic violence was a common cause of both migration to Tanzanian cities and movement within Tanzanian cities, and that “young, poor women have it the worst.”⁴⁵⁶ Representatives of UNFPA, who work closely on domestic violence issues in Tanzania, indicated that “running away from [violent] homes is difficult because [women] have no plan.”⁴⁵⁷

Unfortunately, Tanzania suffers from a shocking dearth of domestic violence shelters and safehouses,⁴⁵⁸ despite advocates’ pleas to government for such shelters.⁴⁵⁹ This leaves women who are brave enough to flee violent situations with few adequate housing options. Those who do flee often “either return to the men, where they are sometimes beaten again, or go live with relatives” if they are fortunate enough to be able to do so.⁴⁶⁰ However, many women said that, because they “have nowhere

454. In addition, instances of harmful cultural practices such as female genital mutilation are now being reported as occurring in urban areas. Interview with Sara Cameron, Chief of Commc’ns, UNICEF, *supra* note 183.

455. See Interview with Representatives, Comm’n for Human Rights and Good Governance [CHRAGG], in Dar es Salaam, Tanz. (May 26, 2010); see also THE COMM’N FOR HUMAN RIGHTS AND GOOD GOVERNANCE, <http://www.chragg.go.tz> (last visited Apr. 6, 2011).

456. Interview with Friederike Amani Paul, Special Assistant to the Representative, UNFPA, *supra* note 372; see also Interview with Festa Andrew, Program Officer, Women’s Dignity, in Dar es Salaam, Tanz. (May 28, 2010).

457. Interview with Christine Mwanukuzi-Kwayu, Nat’l Program Officer, UNFPA, *supra* note 368.

458. See Interview with Anna Holmstrom, Program Officer, UNFPA, *supra* note 327.

459. See Interview by with Martha Lyimo, Coordinator and Paralegal, AWLAHURIC, *supra* note 393.

460. *Id.*

else to go," they "decide to forgive and forget to have harmony."⁴⁶¹

At House of Peace, women with first-hand experience of escaping violent homes reported that "women are afraid to escape" due to fear that "their husbands will follow them."⁴⁶² However, "[i]f a husband beats you enough, eventually you just leave the house if it's too much to bear."⁴⁶³ Although some women can summon the courage to pursue divorce in such cases,⁴⁶⁴ many women simply leave their homes or may even be chased by their husbands.⁴⁶⁵ These women may eventually return to their husbands or their natal homes, or may "rent a room on their own."⁴⁶⁶ Nationally, however, there appears to be only one domestic violence shelter actually in operation,⁴⁶⁷ so many women will seek shelter with friends or relatives and frequently do not receive support from their abusive husbands, for their children or otherwise.⁴⁶⁸

Many women expressed that domestic violence is not only culturally acceptable among Tanzanian men,⁴⁶⁹ but that women often believe they "should tolerate [it]" as part of their "culture."⁴⁷⁰ A 2002 study conducted in Dar es Salaam found that "[v]iolence that does not leave sustained marks on women was referred to [by women interviewees] as 'normal,' indicating that

461. Interview with Fatuma J., Member, FUP, *supra* note 394.

462. Interview with Anonymous Client No. 3, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010).

463. Interview with Christina R., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010).

464. An AWLAHURIC client who is currently engaged in a legal battle over her home, shared:

Throughout my whole nine year marriage, my husband beat me every day. He hit me and tried to hit me with a chair. I never went to the hospital, but he did break my arm. I was raped several times. It got to the point where I thought it was normal.

Interview with Princilla, Client, AWLAHURIC, in Arusha, Tanz., (May 21, 2010).

465. *See* Interview with Preska N., Client, MPLC, *supra* note 389.

466. *Id.*

467. *See* Interview with Anna Holmstrom, Program Officer, UNFPA, *supra* note 327.

468. *See* Interview with Preska N., Client, MPLC, *supra* note 389.

469. *See* Interview with Martha Lyimo, Coordinator and Paralegal, AWLAHURIC, *supra* note 393 ("Men think they have a right to beat their wives.").

470. *Id.*; Interview with Residents, Morogoro Informal Settlement, in Morogoro, Tanz. (May 17, 2010) (indicating that women should "just keep quiet; don't go to the police" to avoid jeopardizing their financial situations); Interview with Christine Mwanukuzi-Kwayu, Nat'l Program Officer, UNFPA, *supra* note 368 ("Many women feel like a slap is part of marriage.").

there is a perceived threshold of acceptable violence in the community.”⁴⁷¹ As Preska N. of Morogoro put it,

There are people who are being battered but they are too afraid to say anything. There are some women who are being battered, most of them don't tell other people, but you can know there is domestic violence because of the way that they are living. . . . You can hear the quarrels or a woman will stay home for a long time, saying they are sick, because they have been beaten.⁴⁷²

Until recently, police largely “ignore[d]” domestic violence complaints, treating them as family matters;⁴⁷³ however, the creation of the Tanzania Police Female Network (“TPFNet”) has resulted in “gender desks” at police stations, which are devoted to dealing with complaints of gender-based violence.⁴⁷⁴ Despite this advancement, Fatma Toufiq, Director and Paralegal Coordinator of WOWAP, expressed concerns that the police are often from the same communities as those experiencing or perpetrating domestic violence and believe it is acceptable to beat their wives according to their “culture.”⁴⁷⁵ Moreover, it can also be difficult to “find leaders or professionals [including police officers and government enforcers] who demarcate their jobs from their lives and cultural practices.”⁴⁷⁶ Corruption within the judicial system, local authorities’ lack of enforcement power, and a lack of resources on the part of domestic violence survivors

471. Suzanne Maman et al., *HIV-Positive Women Report More Lifetime Partner Violence: Findings from a Voluntary Counseling and Testing Clinic in Dar es Salaam, Tanzania*, 92 AM. J. OF PUB. HEALTH 1331, 1336 (2002).

472. Interview with Preska N., Client, MPLC, *supra* note 389.

473. Interview with Representatives, CHRAGG, *supra* note 455.

474. See USAID, *supra* note 452, at v. Legal representatives from TAWLA reported that the gender desks have not reduced instances of domestic violence, but that they have given women a “place to go.” Interview with Lawyers & Paralegals, TAWLA, *supra* note 286. Representatives of UNFPA commented that “[t]he police initiative is very important, because many of them would just say this is a domestic issues, go sort it out yourselves.” Interview with Friederike Amani Paul, Special Assistant to the Representative, UNFPA, *supra* note 372. However, such desks may be located in the center of the station, lacking privacy. Interview with Lawyers & Paralegals, TAWLA, *supra*.

475. Interview with Fatma Toufiq, Dir. and Paralegal Coordinator, WOWAP, *supra* note 392.

476. Interview with Christine Mwanukuzi-Kwayu, Nat'l Program Officer, UNFPA, *supra* note 368.

compounds the problem.⁴⁷⁷ As a result, formal reports of domestic violence are disproportionately rare.⁴⁷⁸

Interviews undertaken across Tanzania confirmed these assertions. In Arusha, one woman told the delegation how, upon her father's death, her husband "started to torment me and not take care of my child."⁴⁷⁹ The abuse escalated to the point where he closed her business, bit her, broke her fingers, and burned her, eventually locking her out of their home. She sought help from the police, but they declined to take action. She has now lost all of her possessions and has been staying with a family member; her husband refuses to come to court hearings.⁴⁸⁰ Other women, taking refuge in House of Peace, echoed stories of violence and displacement, as well as of their husbands' refusal to participate in reconciliation meetings.⁴⁸¹ One woman told how her husband "bought a gun to kill me," and subsequently "left me in the forest with a wrapper only, and left suddenly. It was around 3pm. It took me to midnight to find the road. . . . I had nowhere to go. I had nothing."⁴⁸² A court ordered her husband to give her shelter, "but he kicked me out." A case against her husband has been postponed indefinitely, and her husband has refused to divorce her in an effort to retain control over all marital properties.⁴⁸³ Until she found shelter at House of Peace, she said, "I was planning to poison myself and my child. I had no relatives to support me."⁴⁸⁴ Another woman shared stories of her life on the streets, which lasted four years and came as a result of domestic violence.⁴⁸⁵ Still others told of beatings "until I almost

477. See Interview with Yohana K., Member, WOWAP, in Dodoma, Tanz. (May 20, 2010).

478. See Interview with Martha Lyimo, Coordinator and Paralegal, AWLAHURIC, *supra* note 393; see also Maman et al., *supra* note 471, at 1332; Laura Ann McCloskey et al., *Gender Inequality and Intimate Partner Violence among Women in Moshi, Tanzania*, 31 INT'L FAM. PLAN. PERSP., 124, 129 (2005).

479. Interview with Anonymous Client No. 4, House of Peace, *supra* note 404.

480. See *id.*

481. See Interviews with Anonymous Clients, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010). As of November 2010, House of Peace was stretched far beyond its capacity and budget, giving shelter to thirty-five women and eighteen children.

482. *Id.*

483. See *id.*

484. *Id.*

485. See Interview with Anonymous Client No. 7, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010).

fainted,” beatings causing complications with pregnancy, and a tangled web of “postponed” cases and police inaction.⁴⁸⁶

The reconciliation policy means that community police officers, village elders, and law enforcement officials often simply contact the husband to tell him “he has a responsibility to take care of his family” in order to resolve the issue.⁴⁸⁷ In Morogoro, one anonymous member of DIAC explained:

When I’m being beaten by my husband, I go to the elders, who sit down with [us]. They try to harmonize the relationship and ask me to go back to the family. The husband tells me, “I have paid your dowry, so you are mine and you have to stay.”⁴⁸⁸

She noted, “Men say, ‘This is our culture.’ [They tell us] to just keep quiet, don’t tell anyone.”⁴⁸⁹ As a result, many women stay in unsafe housing situations or flee to live in precarious conditions.

c. Gender-Based Housing Discrimination

Such cultural issues as polygamy, early marriage, lack of education, and harmful traditional practices have been cited as spurring women’s migration to cities;⁴⁹⁰ however, once women arrive in cities, they often face discrimination specific to their attempts to secure housing. “[C]ultural barriers which discriminate against women, even where legal standards are in place to prohibit such treatment, present major obstacles to the realisation of women’s human rights, including housing rights.”⁴⁹¹ Women interviewed indicated that it is difficult for both men and women in Dar es Salaam to secure housing due to scarcity and costs, but that a potential “landlord’s first question

486. See generally Interviews with Anonymous Clients, House of Peace, *supra* note 481. Moreover, the PF3 form, which is required to report a rape, is kept only at police stations, often precluding hospitals from conducting rape exams. See Interview with Anonymous Client No. 9, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010); Interview with Christine Mwanukuzi-Kwayu, Nat’l Program Officer, UNFPA, *supra* note 368.

487. See Interview with Members, FUP, *supra* note 354. In fact, one woman stated that if a woman reported that she had been raped, she would “advise her to go and make an amicable settlement with her husband. There’s no law to protect that woman.” Interview with Juliana L., Member, WOWAP, in Dodoma, Tanz. (May 20, 2010).

488. Interview with Members, DIAC, in Dodoma, Tanz. (May 20, 2010).

489. *Id.*

490. See, e.g., COHRE, *supra* note 2, at 35–36.

491. *Id.*

[to a single woman] is if you have a spouse. Without one, it is hard to get housing.”⁴⁹² Fatuma J., a fifty-three-year-old mother of four who is building her own home with the assistance of FUP and the Centre for Community Initiatives, told the delegation, “Landlords prefer spouses. If you are single, they assume you will bring ‘visitors’ and things will be less stable. Things will get destroyed.” She indicated that this was especially true for young, single women, as “older women are [perceived as] more respectable.”⁴⁹³ Many women shared similar experiences across Dar es Salaam. During a large group meeting with members of the Kisamaja Women Housing Cooperative Society, interviewees added that mothers with children experience even more difficulties due to landlords’ fears that the “toilets will get full quicker” and the “house will be dirtier.”⁴⁹⁴ Essentially, for a man, “it is easy to get a house. But for the woman, because we have children . . . it is difficult to get a room because the owner sees us as a disturbance.”⁴⁹⁵ In order to overcome gender-based housing discrimination, Rehema M. said that she resorted to paying someone nearly a month’s rent to find her a room in Dar es Salaam: “When I want to find a room, I pay a man . . . to find it for me because it is not difficult for a man to find a place to rent. I never try by myself.”⁴⁹⁶ According to Rehema, this kind of discrimination will not change: “It is Tanzanian culture” that makes it much harder for a woman to find housing than a man.⁴⁹⁷

d. HIV/AIDS-Related Discrimination

HIV/AIDS stigma and discrimination is another factor that pushes women to migrate and one that frustrates their attempts to secure rental housing in cities.⁴⁹⁸ Many women reported that

492. Interview with Fatuma J., Member, FUP, *supra* note 394.

493. *Id.*

494. Interview with Members, Kisamaja Women Hous. Coop. Soc’y, in Dar es Salaam, Tanz. (May 21, 2010).

495. Interview with Rehema M., Member, Kisamaja Women Hous. Coop. Soc’y, in Dar es Salaam, Tanz. (May 21, 2010).

496. *Id.*

497. *Id.*

498. See, e.g., AMNESTY INT’L, *supra* note 7, at 15–16 (indicating that HIV/AIDS discrimination contributed to Kenyan women’s decisions to move to informal settlements, to their disinheritance, and to the difficulties they face in urban areas); COHRE, *supra* note 2, at 32 (“In many parts of the world, the devastating impact of

they migrated to cities because “medication is more available [there] and because stigmatization is greater in villages,”⁴⁹⁹ while UNAIDS representatives indicated that in urban areas “neighbors talk” when they see women seeking healthcare treatment for themselves or for their children.⁵⁰⁰ Perhaps most threatening to women’s housing stability is “the idea . . . that women are responsible for HIV within the family,” which is still prevalent;⁵⁰¹ it is not uncommon for women to be blamed for infecting their husbands and subsequently to be chased from the home upon their husbands’ deaths or to choose to depart “voluntarily.”⁵⁰² Universally, it appears that HIV/AIDS discrimination and stigma contributes significantly to women’s marginalization and displacement in rural areas and makes their living situations “equally, if not more difficult, in the settlements.”⁵⁰³

Many women fear losing their homes due to stigmatization, which often occurs within families. Essentially, after a woman learns her HIV status, she will try to hide it for as long as possible from neighbors and her family in order to ensure that she can maintain her place in the home.⁵⁰⁴ Representatives of HAFOTA stressed that a woman’s security within the home is inextricably linked to her HIV status, stating that, “[w]hen it comes to housing, [women] with HIV are chase[d] off the matrimonial

HIV/AIDS serves to accelerate women’s disinheritance, and consequently, women’s migration to the slums.”). *See generally* Tungaraza, *supra* note 323, at 301 (discussing broadly the disproportionate impact the HIV/AIDS virus has on women in Tanzania). In Tanzania, “more women (6.6%) are infected [with HIV] than men (4.6%).” MINISTRY OF FIN. AND ECON. AFFAIRS, NATIONAL STRATEGY FOR GROWTH AND REDUCTION OF POVERTY II 14 (2010) (Draft) (Tanz.).

499. Interview with Anonymous Member, FUP, in Arusha, Tanz. (May 19, 2010).

500. *See* Interview with Emebet Admassu, P’ship and Advocacy Advisor, UNAIDS, in Dar es Salaam, Tanz. (May 24, 2010).

501. *See* Interview with Emmanuel Mziray, Greater Involvement of People Living with AIDS (“GIPA”) Advisor, UNAIDS, in Dar es Salaam, Tanz. (May 24, 2010).

502. *See* Ezer, *supra* note 213, at 624; *see also* U.N. Hum. Rts. Comm., *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fourth Periodic Reports of State Parties: United Republic of Tanzania*, ¶¶ 59–61, U.N. Doc. CCPR/C/TZA/4 (Dec. 17, 2007) (discussing Tanzania’s official stance on witchcraft).

503. *See* AMNESTY INT’L, *supra* note 7, at 16; *see also* Chi Mgbako et al., *We Will Still Live: Confronting Stigma and Discrimination against Women Living with HIV/AIDS in Malawi*, 31 *FORDHAM INT’L L.J.* 528, 556–78 (2008).

504. *See, e.g.*, Interview with Elizabeth M., Member, FUP, in Dar es Salaam, Tanz. (May 17, 2010).

home by the husband's family."⁵⁰⁵ Moreover, one anonymous resident of Daraja Mbili noted that, "when men realize they have HIV, they run away, go to another city, and start a new life. They leave women to take care of the children,"⁵⁰⁶ thus abandoning women to deal with the question of housing for their families. Finally, the delegation also heard stories of landlords evicting women because of their HIV status. As an example, Beatrice T., also from Daraja Mbili, shared her story: "I was given an eviction notice this month because of my HIV status; the landlord doesn't want me using pit latrines because [he] thinks I could infect other people."⁵⁰⁷

In addition to facing vulnerability in their current housing situations, women also expressed difficulties in obtaining housing due to their HIV status. Of course, these difficulties hinge on whether they have made their status public; however, numerous interviewees shared stories of "landlords [who] don't want to live with or rent to people with HIV."⁵⁰⁸ If they can overcome this initial hurdle to obtain rental accommodation, they are then required to pay rent equal to six months or one year in advance.⁵⁰⁹ This requirement may be nearly impossible to meet for HIV-positive women, who often face a loss of income due to stigma and discrimination.⁵¹⁰ One woman reported that the discrimination she experienced went exceptionally far: "The landlord doesn't even want to touch my money, so I have to give the money to a government official who then gives it to the

505. See Interview with Kellen Mngoya, Sec'y Gen., HAFOTA, *supra* note 411. Widows who have HIV/AIDS are particularly vulnerable to property grabbing. See COHRE, *supra* note 2, at 39, 114–15; see also Richard S. Strickland, *To Have and To Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa* 28 (Int'l Ctr. For Research on Women, Working Paper, 2004), available at <http://www.icrw.org/files/publications/To-Have-and-To-Hold-Womens-Property-and-Inheritance-Rights-in-the-Context-of-HIV-AIDS-in-Sub-Saharan-Africa.pdf>; Tanzania Adopts HIV Law, *supra* note 328, at 4.

506. Interview with Anonymous Woman, FUP, *supra* note 499; see also Interview with Women's Group, Tanzania Millennium Hands Foundation [TAMIHA], in Arusha, Tanz. (May 20, 2010).

507. Interview with Beatrice T., Member, HIV Grp., FUP, in Arusha, Tanz. (May 19, 2010).

508. Interview with Anonymous Woman, FUP, *supra* note 499; see also Interview with Anonymous Women, Kaloleni Settlement, in Moshi, Tanz. (May 17, 2010).

509. Interview with Anonymous Women, Kaloleni Settlement, *supra* note 508.

510. See *id.*; Interview with Members, FUP, in Dar es Salaam, Tanz. (May 17, 2010).

landlord. The stress is making me weaker and thinner.”⁵¹¹ Stories like these were not uncommon.

3. Economic Barriers

*“Vulnerability is determined by the ability to afford life.”*⁵¹²

Women across urban Tanzania reported that they came to cities in search of a better life, but that “[their] lives were not as favorable as [they] had anticipated,”⁵¹³ largely due to the overwhelming poverty they now face.⁵¹⁴ Representatives of CHRAGG concurred, explaining that migration to cities is only exacerbating the problem of poverty.⁵¹⁵ More specifically, the main problems women cited with respect to accessing housing were lack of income and job opportunities, along with an inability to access credit. Despite the fact that cities are often thought to provide more economic opportunities than rural areas, women stated that city life was often more difficult, noting

511. Interview with Beatrice T., Member, HIV Grp., FUP, *supra* note 507.

512. Interview with Robert Mhamba, Professor, Inst. of Dev. Studies, Univ. of Dar es Salaam, *supra* note 180; *see also* Interview with Festa Andrew, Program Officer, Women's Dignity, *supra* note 456 (“[F]or [women], it is *always* economic crisis.”).

513. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384 (emphasizing the lack of “financial stability” in cities and indicating that “what we were expecting to happen in town . . . didn’t happen. Life becomes difficult as the days go by”); *see also* Interview with Asha M., Member, FUP, in Dar es Salaam, Tanz. (May 17, 2010) (indicating that that some women’s lives had improved upon moving to the city, “but most not yet”).

514. Now both feminized and urbanized, poverty frequently underpins the human rights challenges facing women who live in Tanzania’s cities. Certainly, poverty is a global phenomenon; however, in the cities of developing countries, it is “deeper and more widespread.” U.N. Ctr. for Human Settlements (HABITAT), Brochure on Istanbul +5 (Apr. 1, 2001), *available at* <http://un.org/ga/Istanbul+5/brochure.pdf>; *see also* Akrofi, *supra* note 63, at 5. The UN has recognized that “slums are a manifestation of . . . rapid urbanization and the urbanization of poverty,” with “the highest concentrations of poor people and the worst shelter and physical environmental conditions.” *Challenge of Slums*, *supra* note 6, at vi. Furthermore, women make up 60% of the world’s poorest people, *see Gender and Poverty Reduction*, UNDP, http://www.undp.org/poverty/focus_gender_and_poverty.shtml (last visited Apr. 6, 2011), and as the delegation heard repeatedly during field interviews, women often migrate to cities for economic reasons. For women, gender-based discrimination compounds the burdens of poverty, making it “every bit as unrelenting in the cities as it is elsewhere.” COHRE, *supra* note 2, at 42. The fact is that women suffer disproportionately from poverty in urban areas, *see Akrofi*, *supra* note 63, at 7, and poverty is a key reason for women’s inability to access adequate housing.

515. *See* Interview with Representatives, CHRAGG, *supra* note 455.

that in villages, women could eat or sell their own vegetables, but without money in cities they often went without food.⁵¹⁶

Most pressing was women's inability to access stable employment with regular income. Noting that the "small, low-paying jobs" they are able to find upon migrating to cities do not pay enough to cover their living expenses, many women expressed their financial desperation.⁵¹⁷ For example, in Dodoma, members of WOWAP told the delegation that women often move "to town to get a job, but end up being prostitutes. Even legitimate employers will also use their staff as prostitutes after the shop closes. And men pay more to have sex without condoms."⁵¹⁸ These risky behaviors were not uncommon, as women seek to supplement their incomes as barmaids or domestic workers with "sex work on the side."⁵¹⁹ In their efforts to make ends meet, women end up facing increased exposure to sexually transmitted diseases and gender-based violence.⁵²⁰ Educational disparities only compound these problems.⁵²¹

Other women are simply barred from working by their husbands and face extreme financial hardship as a result.⁵²² One longtime client of House of Peace told the delegation that when she came to Dar es Salaam she first worked as a housemaid and in an office, but that her husband

516. See Interview with Shamimu J., Client, TAWLA, in Dar es Salaam, Tanz. (May 19, 2010).

517. Interview with Members, WOWAP, *supra* note 438. Harassment from government is not uncommon for women who have set up small businesses, selling fruit or cooking food. For example, women in Dar es Salaam reported being asked for fines by government representatives, who will then demolish their small kitchens if they cannot pay. The local municipal council will also fine them if the "area [the women] are conducting is dirty." See Interview with Anna Y., Member, Kisamaja Women Hous. Coop. Soc'y, in Dar es Salaam, Tanz. (May 21, 2010). The story was the same for women in Arusha, who reported harassment by the municipal council. See Interview with Anonymous Client No. 11, AWLAHURIC, in Arusha, Tanz. (May 21, 2010).

518. Interview with Members, WOWAP, *supra* note 438.

519. *Id.*; see also Interview with Representatives, Lawyers' Envtl. Action Team [LEAT], in Dar es Salaam, Tanz. (May 25, 2010).

520. See Interview with Members, WOWAP, *supra* note 438.

521. See Interview with Robert Mhamba, Professor, Inst. of Dev. Studies, Univ. of Dar es Salaam, *supra* note 180; see also Interview with Ludovicka L.S. Tarimo, Project Dev. Specialist/Gender Advisor, USAID, *supra* note 386 ("The gap between the rich and the poor is growing.").

522. See, e.g., Interview with Zubela M., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010) ("I am staying with him again, but he doesn't let me work, so I have no money. He won't give me any money.").

told me I can't work anymore; I had to stay home. During the day I sold chapatti, but when he found out, he punished me. I wanted to work because I knew his salary was not enough. I wanted the kids to go to school. He didn't want the children to study.⁵²³

After her husband abandoned her and their two children, her living conditions deteriorated rapidly: "I was on the streets for four years; I was totally homeless."⁵²⁴

This lack of regular employment makes it nearly impossible for women to secure and maintain rental housing in cities. Women indicated that they could not afford to pay large advance rent payments to secure rental accommodation⁵²⁵ and that they frequently worried about "being kicked out for non-payment of rent."⁵²⁶ Women are also expected to "stay in the home," excluding them from the scarce employment opportunities that do exist.⁵²⁷ In addition, women often find themselves rejected by landlords because "they are too poor," which means they must forego "a lot of the basic amenities."⁵²⁸ Throughout urban areas, women agreed both that "men have better prospects for employment"⁵²⁹ and that "women have a harder time [than men] paying rent and keeping their room."⁵³⁰

523. Interview with Anonymous Client No. 7, House of Peace, *supra* note 485.

524. *Id.*

525. *See, e.g.*, Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352 (stating that landlords require one year's rent in advance); Interview with Anonymous Women, Kaloleni Settlement, *supra* note 508 (stating the same).

526. Interview with Piwi A., Morogoro Informal Settlement, in Morogoro, Tanz. (May 17, 2010).

527. Interview with Residents, Morogoro Informal Settlement, *supra* note 470.

528. Interview with Preska N., Client, MPLC, *supra* note 389; *see also* Interview with Hawa, Client, TAWLA, in Dar es Salaam, Tanz. (May 19, 2010) ("Six months rent in advance; it is difficult, very difficult. [I am] in trouble . . . [and am] going to be evicted in August."); Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc'y, in Dar es Salaam, Tanz. (May 21, 2010) ("It's harder for women because most women have kids. It gets harder when you have a kid because you can't just [watch] your kid . . . go hungry; you have to find money. For men, it's easier because he just finds money for himself for that day, and he can sleep anywhere. A woman, you can't just sleep anywhere with a child. Even if you don't have a child, [as] a woman, you can get raped."); *id.* ("To get food is very tough because sometimes I am suffering, because sometimes my child sleeps without eating.").

529. Interview with Nelly P., Member, Nala Mkazi Sav. Grp., in Dodoma, Tanz. (May 19, 2010); *see also* Interview with Kidala R., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 435 ("It is more difficult for me than my husband to make money and find housing.").

530. Interview with Flora Masoy, Coordinator, MPLC, *supra* note 30.

Urban women also expressed despair at their inability to access credit to start businesses or to improve their housing. Complaining that loans from commercial banks require substantial collateral⁵³¹—which they do not have because their names are excluded from titles, because men refuse to grant them permission to apply,⁵³² or because of poverty—many women opt to pursue microloans such as those offered by savings and credit cooperatives (“SACCOs”). SACCOs represent just one way that Tanzanian civil society is filling the gaps left by government’s neglect of these gendered issues. In fact, Pauline Shayo, manager of WAT-SACCO, reported that WAT-SACCO had “more women members than men” and that “women repay at higher rates than men.”⁵³³ This was also the case at Dar es Salaam Community Bank, which indicated that 90% of its solidarity savings group clients were women, but that salaried loans primarily went to men,⁵³⁴ and at PRIDE Tanzania, where 65% of the clients are women.⁵³⁵ Moreover, WAT-SACCO has proven unequivocally that women who are given access to small loans for purposes of upgrading their homes can then tap into improved income streams via increases in residential and commercial rental spaces and values.⁵³⁶ However, it was clear that at least some women struggled with making timely payments⁵³⁷ and

531. See Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384; Interview with HIV-Positive Women, Juhudi Women’s Grp., *supra* note 352; Interview with Abel Mwisela, Branch Manager, PRIDE Tanz., in Dar es Salaam, Tanz. (May 25, 2010).

532. See, e.g., Interview with Mariam M., Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010) (“[F]irst they ask for the title deed and the person’s name on there has to appear, or if not, they must write a letter introducing you.”).

533. Interview with Pauline Shayo, Manager, WAT-SACCO, in Dar es Salaam, Tanz. (May 25, 2010). Approximately 60% of WAT-SACCO’s 8000 members are women. See Interview with Tasilo Joseph Mahuwi, Managing Dir., Dunduliza, in Dar es Salaam, Tanz. (May 27, 2010).

534. See Interview with Edmund P. Mkwawa, Managing Dir., Dar es Salaam Cmty. Bank, in Dar es Salaam, Tanz. (May 25, 2010) (discussing the difference between multi-member mainly women’s solidarity loan groups and salaried loans given to those earning an annual wage, which are mainly men).

535. See Interview with Abel Mwisela, Branch Manager, PRIDE Tanz., *supra* note 531.

536. See, e.g., Interview with Zainabu Mbaraku, in Dar es Salaam, Tanz. (May 18, 2010) (discussing how WAT-SACCO loans have assisted her to regularize and upgrade from a mud and wattle house, allowing her to increase her residential rental income seven times the previous rate and to add a commercial rental space).

537. See Interview with Domina, Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

others ended up using their loans for unintended purposes, such as “school fees, . . . clothes for children, food, [and] bills”⁵³⁸ because of the disproportionate share of care-giving duties with which many women are burdened.⁵³⁹ In other words, a woman may “get a loan for a certain amount, but still have many expenses, so it doesn’t really improve [her] life.”⁵⁴⁰

On a related note, other women worried about the consequences of defaulting on their loans and reported struggling with interest rates reaching up to 30%.⁵⁴¹ A forty-eight-year-old mother of five told the delegation that she was “too scared to take loans, because if you default they will come and take everything from you. It’s risky to default, and the interest is too much, and payment is due too quickly.”⁵⁴² Another member of the same group had similar concerns, “If you default, the bank officials will take your house and anything else you put up for collateral. That’s the danger with loans.”⁵⁴³

Unfortunately, it seems that when it comes to credit, “the majority . . . will not be taken care of by the market.”⁵⁴⁴ Even if poor, urban women could access loans, scant facilities provide financing for mortgages or home improvements after the collapse of the Tanzania Housing Bank due to mismanagement.⁵⁴⁵ Unofficially, the government acknowledges this issue and is “encouraging low-income people who can’t get

538. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384.

539. *See, e.g.*, Interview with Hawa, Client, TAWLA, *supra* note 528 (indicating that she bears sole responsibility for her children, “who have been refused by the father”).

540. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384.

541. Abel Mwaisela, Branch Manager for PRIDE Tanzania, stated that the typical interest rate was “less than thirty percent. The rate reduces once [the amount of the loan goes] up. The interest rate is higher for smaller loans.” Interview with Abel Mwaisela, Branch Manager, PRIDE Tanz., *supra* note 531.

542. Interview with Rehema M., Deputy, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010).

543. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384.

544. Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 29. Nnkya is a professor and expert in land rights issues in Tanzania and expressed his opinions in a personal capacity and not as a representative of the ministry.

545. *See* Interview with Abel Mwaisela, Branch Manager, PRIDE Tanz., *supra* note 531; *see also* Interview with Michael L.L. Mpuya, Cmty. Dev. Officer & Senior Research Sociologist, NHBRA, in Dar es Salaam, Tanz. (May 27, 2010). However, the government is currently developing ambitious plans to improve this situation. *See, e.g., Tanzania: Sh42 Billion up for Grabs in Housing Scheme*, CITIZEN (Dar es Salaam), Aug. 28, 2010, <http://allafrica.com/stories/201008300363.html>.

loans to go to housing cooperatives.”⁵⁴⁶ However, while WAT-SACCO is a leader in the field of housing finance, having piloted and now successfully launched a housing microloan facility, other NGOs continue to struggle to find funding for what is perceived as a risky venture.⁵⁴⁷ According to urban planners within the Ministry of Lands, Housing and Human Settlements Development, “people living in urban areas can’t access loans. They can’t go to banks.”⁵⁴⁸ Ultimately, one NGO estimates that less than 40% of the population has any access to credit via NGOs or otherwise.⁵⁴⁹

4. Institutional Barriers

*“Informal settlements are the main feature of our country.”*⁵⁵⁰

In addition to the legal, cultural, and economic barriers women face in accessing and maintaining housing, large-scale institutional barriers further complicate their situation. This Section explores such issues as governmental bureaucracy and inaction, regulation of landlords, and government-sponsored evictions, compensation, and resettlement. Each obstacle carries a unique impact for women, further impeding their ability to secure housing for themselves and their families.

546. Interview with Senior Town Planners, Ministry of Lands, Hous. and Human Settlements, in Dar es Salaam, Tanz. (May 28, 2010).

547. See Interview with Michael L.L. Mpuya, Cmty. Dev. Officer & Senior Research Sociologist, NHBRA, *supra* note 545 (noting that many financial institutions are not “interested in housing” finance); Interview with Abel Mwaisela, Branch Manager, PRIDE Tanz., *supra* note 531 (noting that PRIDE Tanzania does not offer housing finance, but is thinking of adding it); Interview with Edmund P. Mkwawa, Managing Dir., Dar es Salaam Cmty. Bank, *supra* note 534 (noting that the Bank is struggling to “find a secure source of funding for these long-term housing loans, but no one has agreed to fund us”).

548. Interview with Senior Town Planners, Ministry of Lands, Hous. and Human Settlements, *supra* note 546.

549. See Interview with Abel Mwaisela, Branch Manager, PRIDE Tanz., *supra* note 531.

550. Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous., and Human Settlements Dev., *supra* note 29.

a. Government Policy, Bureaucracy, and Inaction as Roadblocks to Adequate Housing

*"[I]ncreasing trends towards privatization of housing services and markets also typically result in land speculation, the commodification of housing, the application of user fees for housing resources such as water, sanitation and electricity, and the repeal or amendment of land ceiling and rent control legislation. The result is the increased marginalization of the poor."*⁵⁵¹

The Tanzanian government has acknowledged that rapid urbanization is transforming its landscape. In its National Strategy for Growth and Reduction of Poverty issued in 2005, it recognized that unplanned settlements "remain a challenge to urban planning," but that government programs to survey, regularize, and upgrade informal settlements would aid residents by allowing them to use their property as collateral for credit.⁵⁵² In fact, the National Strategy explicitly recognized the unique effect urban poverty has on vulnerable groups, especially women, noting that the "congested, mainly un-surveyed areas, overcrowded residences and . . . streets" where such vulnerable people live "lack safe and reliable water and have poor waste management and lighting."⁵⁵³ Even earlier, the National Human Settlements Development Policy of 2000 acknowledged the "alarming" rate at which informal settlements are growing, the lack of physical and social infrastructure in the settlements, the dramatic increase in the number of woman-headed households in the country, and the cultural barriers women face when it comes to land ownership.⁵⁵⁴ Among other goals, the Human Settlements Development Policy aimed "[t]o assist the poor [to] acquire decent shelter" and "[t]o streamline the legal and institutional machinery for human settlements development."⁵⁵⁵ To these ends, the Ministry of Lands, Housing and Human

551. Special Rapporteur on the Right to Adequate Housing, *Rep. of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, Comm'n on Hum. Rts., ¶ 59, U.N. Doc. E/CN.4/2001/51 (Jan. 25, 2001) (by Miloon Kothari) [hereinafter Kothari 2001/51].

552. VICE PRESIDENT'S OFFICE, UNITED REPUBLIC OF TANZ., NATIONAL STRATEGY FOR GROWTH AND POVERTY REDUCTION 7 (2005).

553. *Id.*; see also *infra* Part II.B.

554. See MINISTRY OF LANDS, *supra* note 342, §§ 2.2.2.3–2.2.2.5, 2.2.3.

555. *Id.* § 3.2(xii), (xiv).

Settlements Development has embarked on an ambitious plan to map all residential plots in urban settlements in an effort to issue licenses to residents of informal settlements.⁵⁵⁶ Such licenses are now valid for five years and are renewable twice; however, "the law is a bit silent on what the residential license will do," aside from providing a stepping stone to receiving title, and the repercussions for residents who opt not to obtain licenses are unclear.⁵⁵⁷

Despite the government's recognition of these issues, its deep partnerships with the World Bank on such projects as the Community Infrastructure Upgrading Programme, and its plans to formalize all settlement lands within the next decade,⁵⁵⁸ residents are skeptical. At the forefront of their concerns are a general lack of planning for urbanization issues and a deep mistrust of government. Professor Chris Maina Peter, a lawyer and human rights expert, was explicit: "The Ministry is doing a lot of bad. They are not planning anything. All that they are doing is for developers."⁵⁵⁹ Like many, he believes that urban Tanzanians' ad hoc adoption of self-help building is a positive step toward claiming the right to adequate housing, despite government's failure to provide basic services to support them. However, it is his opinion that mass regularization programs will

556. See Interview with Bertha Mlonda, Principal Town Planner, Office of Settlements Regularization, Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 423; see also J.M. Lusugga Kironde, Improving Land Sector Governance in Africa: The Case of Tanzania 13 (Mar. 9, 2009), http://www.fig.net/pub/fig_wb_2009/papers/gov/gov_1_kironde.pdf (unpublished paper) (on file with author) (noting that the licensing project "seems to have lost steam," that landholders in unplanned areas are "lukewarm towards residential licenses," and that government suffers from limited capacity, "a centralized state-centered approach," "inappropriate standards, regulations and procedures for land use planning," and "politicization of land delivery outputs and lack of a long-term well-resourced plan to register land parcels in the country.").

557. *Id.* (noting that regularization is necessary to provide services to residents of informal settlements).

558. See *id.* (noting that the government has mapped nearly all of the "built-up slum settlements" in the center of Dar es Salaam); see also Kironde, *supra* note 556, at 13 (noting that the government's recent efforts to formalize residential plots represents a "great achievement compared to past efforts, but it is still very much a partial and time bound effort, which is moreover heavily tipped in favour of those in high income brackets leading to further growth of unplanned areas, and the systematic displacement of the poor and native communities from planned land.").

559. Interview with Chris Maina Peter, Professor, Univ. of Dar es Salaam Sch. of Law, *supra* note 364.

not solve the problem.⁵⁶⁰ At the very least, he told the delegation, through the necessity of building homes on unregistered land, residents have demanded and received the “recognition that they are squatters,” which provides some measure of security.⁵⁶¹

When asked whether the government is doing anything to help with housing, many urban Tanzanians simply laughed⁵⁶² or stated that the government had no intention of helping them.⁵⁶³ Both ordinary citizens and government-affiliated Tanzanians agreed that government bureaucracy and inaction has long stymied their ability to establish security of tenure and improve their housing conditions.⁵⁶⁴ They decried the national government’s perceived lack of vision and planning when it comes to urbanization, especially as such issues affect women, were frustrated at what they saw as a lack of communication between national and local governments, and expressed a deep mistrust and lack of faith in government policies aimed at urban issues.⁵⁶⁵ In fact, at the time of this Report, Tanzanians were still waiting for a national housing policy to guide local governments on how to approach informal settlements development; various drafts of the policy have been circulating for years without parliamentary approval.⁵⁶⁶ Although the national government has

560. *See id.*

561. *Id.*

562. *See* Interview with Lawyers & Paralegals, TAWLA, *supra* note 286.

563. *See* Interview with Representatives, MPLC, *supra* note 181; Interview with Jamila J., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010) (“[T]he government has left us on our own.”); Interview with Mariam M., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010) (“Government won’t help. Two years ago, there was a group of people who came through and registered all of us. Since then, nothing has happened.”).

564. *See* Interview with Lawyers & Paralegals, TAWLA, *supra* note 286; Interview with Jamila J., Member, Tupawaki Widows Grp. (Kihonda), *supra* note 563; Interview with Mariam M., Member, Tupawaki Widows Grp. (Kihonda), *supra* note 563.

565. *See* Interview with Tumsifu Jonas Nnyka, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., in Dar es Salaam, *supra* note 29.

566. *See id.* (“[The Policy will be put in place] before the end of the year. It was prepared internally, then we had meetings with stakeholders. It was also distributed to various ministries. Comments were incorporated. A cabinet policy is written; then it needs to get an endorsement by the cabinet.”); *see also Tanzania Urban Housing Sector Profile*, UN-HABITAT, <http://www.unhabitat.org/content.asp?cid=8428&catid=281&typeid=61&subMenuId=0> (last visited Apr. 6, 2011) (“The Policy has been in draft form for the last three years and has yet to be adopted by Parliament. One of the reasons is the lack of up-to-date knowledge in important areas of the current draft.”); Interview with Kellen Mngoya, Sec’y Gen., & Rose Daudi, Coordinator, HAFOTA, in Dar es

partnered with international institutions, including the World Bank, and initiated policies aimed at regularizing, upgrading, or eradicating informal settlements,⁵⁶⁷ it seems that many Tanzanians living in settlements have failed to see the fruits of those collaborations or have only experienced them negatively.

Compounding the issue is the fact that urban land is scarce, with much of it earmarked for private development and all of it in high demand.⁵⁶⁸ Independent NGO WAT-Human Settlements Trust, based in Dar es Salaam, commended the government, especially local authorities, for building a “good relationship” with WAT, but said that the biggest challenge WAT faces is the “non-availability of surveyed plots.”⁵⁶⁹ WAT’s attempts to obtain surveyed plots from city officers has been largely unsuccessful.⁵⁷⁰ Those residents who do have regularized plots often sell to the highest bidder and then move to and build in new informal settlements, contributing further to the unchecked sprawl of Tanzania’s cities.⁵⁷¹ Still others, upon receiving formal title or license, subdivide their land and sell it to new informal builders, again exacerbating an already chaotic problem.⁵⁷²

Professor Nkya, Tanzania’s current director of housing, remarked that housing in Tanzania is traditionally seen as a “private concern” and thus “nobody is producing [social

Salaam, Tanz. (May 25, 2010) (noting that June 2011 is the new deadline and that the sixth draft of the policy was circulated in 2008).

567. See, e.g., Interview with Bertha Mlonda, Principal Town Planner, Office of Settlements Regularization, Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 423; MINISTRY OF LANDS, HOUS. & HUMAN SETTLEMENTS DEV., RESETTLEMENT POLICY FRAMEWORK ix (2008) (Tanz.) [hereinafter RESETTLEMENT POLICY FRAMEWORK].

568. See Interview with Chris Maina Peter, Professor, Univ. of Dar es Salaam Sch. of Law, *supra* note 364; Interview with Tumsifu Jonas Nkya, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 29.

569. Interview with Tabitha Siwale, Exec. Dir., WAT-Human Settlements, *supra* note 182.

570. See *id.*

571. See Interview with Tumsifu Jonas Nkya, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 29; see also Interview with Senior Town Planners, Ministry of Lands, Hous. and Human Settlements, *supra* note 546.

572. See Interview with Senior Town Planners, Ministry of Lands, Hous. and Human Settlements, *supra* note 546; Interview with Catherine Matasha, Law Student, in Dar es Salaam, Tanz. (May 17, 2010) (explaining the process of selling large parcels of land piecemeal so that “at the end nobody has title to the land.”).

housing],”⁵⁷³ a phenomenon that only heightens the issue of land scarcity. With “no clear programs to provide housing,”⁵⁷⁴ urban Tanzanians are forced to resort to self-help building. Proposing a “public-private partnership” with the National Housing Corporation, which was once responsible for social housing, Professor Nnkya envisions a scenario where the NHC will service large lots of empty land and then sell them to developers, reserving some parcels or even just apartments within larger buildings for low-income rental accommodation.⁵⁷⁵ In so doing, the NHC will be able to retain some housing/land for low-income urbanites, where previously such empty tracts were bought up by the upper and middle classes.⁵⁷⁶ He predicts a combination of upgraded settlements and redeveloped land to accommodate vertical constructions. In sum, he says, government policy should fall along these lines:

[U]pgrading [is appropriate in some areas], but it is not worth upgrading in all settlements, especially where the settlement is located in prime areas. Private developers are moving into prime areas, and those upgrading efforts cannot support the new development. Some settlements—those in prime areas—should be redeveloped from the beginning. . . . We should see the private sector as a partner. Public-Private Partnership (PPP) could entice the private sector to develop low-income housing. The role of the government is to ensure that takes place.⁵⁷⁷

However, he acknowledges that “the biggest challenge is trust from the general public that this is going to happen. The main thought in the informal settlements is that [residents] will be displaced in favor of the rich.”⁵⁷⁸ Where women’s rights to adequate housing fall under this proposed scheme remains unclear.⁵⁷⁹

573. Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 29.

574. *Id.*

575. *See id.*

576. *See id.*

577. *Id.*

578. *Id.*

579. *See* Kironde, *supra* note 556, at 13 (noting that urban land ownership among single women and joint owners after one government-led registration project was at 30%; however, “this is fortuitous and there is no positive action to realize increased land ownership by women”).

In addition to the perceived lack of planning with respect to urbanization, urban Tanzanians are also frustrated with the bureaucracy associated with obtaining licenses and titles for their homes and land. Beyond issues of widespread resistance to joint titling and women's ownership of land, many women—and some men—indicated that they had little knowledge of how to obtain titles. Violet M., a forty-one-year-old widow from Dodoma, told the delegation that she was building her own home after the rains had destroyed the mud structure in which she and her three children had been living. Her question to the delegation: “How do we register land?”⁵⁸⁰ Another widow in the same large group interview expressed similar confusion about the process, remarking, “I own my own home, but I don't have any papers for it. I don't know what the process is; I don't know if I own the land.”⁵⁸¹ Other women highlighted the incongruity between the forms for plot registration and loan agreements:

The government, in registering plots, only requires one name and photo. . . . We would love to have our names [on the form] . . . to get inheritance. We need to prove that we are the wife. In getting a loan, there is a place for the husband to sign⁵⁸²

To get a woman's name added to a title “can take months.”⁵⁸³ Beyond these basic obstacles, the cost of surveying land was cited as excessive, mandated plot sizes were considered too large to be affordable, and the process itself was declared complex and cumbersome.⁵⁸⁴ In fact, WAT-Human Settlements undertook an extensive regularization program in Hana Nassif,

580. Interview with Violet M., Member, DIAC, in Dodoma, Tanz. (May 20, 2010).

581. Interview with Anonymous Woman, Member, DIAC, in Dodoma, Tanz. (May 20, 2010).

582. Interview with Tausi H., Client, Habitat for Humanity, *supra* note 430.

583. Interview with Jane Magigita, WLAC, *supra* note 355.

584. *See* Interview with Philemon Ndesambura & Lucy F. Owenya, Members of Parliament, in Moshi, Tanz. (May 18, 2010); *see also* Interview with Naomi Makota, Cmty. Dev. Officer, WAT-Human Settlements Trust, in Dar es Salaam, Tanz. (May 18, 2010) (describing the process as “very difficult and complicated”); Interview with Barjor Mehta, Senior Urban Specialist, Africa Urban & Water Grp. [AFTUW], World Bank, in Dar es Salaam, Tanz. (May 20, 2010) (indicating that the government requirement that all plots be at least one-sixth of an acre is unrealistic); Interview with Phillemon Mutashubirwa, Country Program Manager, UN-HABITAT, in Dar es Salaam, Tanz. (May 20, 2010) (discussing the requirement that all land must be surveyed before anything can be built).

Dar es Salaam's oldest informal settlement.⁵⁸⁵ Although many residents reportedly knew little about their property rights, upon learning more from WAT-Human Settlements, most opted to participate in the program and many received ninety-nine year titles.⁵⁸⁶ Ninety-nine years is the lengthiest duration of any title granted in Tanzania and thus attracts the highest buyout prices.⁵⁸⁷ Despite WAT-Human Settlement's involvement in such a large-scale regularization scheme, even its staff were unclear on what the criteria were for securing the various titles. Naomi Makota, of WAT-Human Settlements, told the delegation that, "[i]n fact, we don't know the criteria they use. Even . . . we are wondering, 'How come Hanna Nassif [residents] have ninety-nine years?' We are wondering; we don't know the criteria."⁵⁸⁸

At the root of many of these problems is Tanzanians' deep disillusionment with their government. Throughout the delegation's interviews, both men and women complained of government corruption and its lack of commitment to the poor, as well as their inability to hold government accountable for its failure to "provide for those not living in the formal sector."⁵⁸⁹ Among residents' main concerns was government's perceived misuse and mismanagement of funds, including a lack of transparency when it comes to collection and use of taxes,⁵⁹⁰ government's "conspicuous consumption,"⁵⁹¹ and the misallocation of budgetary resources, which seem consistently to overlook urban housing needs.⁵⁹² Some residents also expressed

585. Interview with Naomi Makota, Cmty. Dev. Officer, WAT-Human Settlements Trust, *supra* note 584. The project involved the attempted regularization of approximately 1423 plots in Hanna Nassif. As of May 2010, 200 have been completed and 800 are in progress. *Id.*

586. *See* Interview with Kenneth S., in Dar es Salaam, Tanz. (May 18, 2010).

587. *See id.* ("When your title ends, technically your title is revoked. The more the years lease, the more compensation you will get because investors will have to stay on that land for ninety-nine years."). In fact, because Hanna Nassif lies in such a central urban location, WAT-Human Settlements actually expected to receive only thirty-three-year titles. *See id.*

588. Interview with Naomi Makota, Cmty. Dev. Officer, WAT-Human Settlements Trust, *supra* note 584.

589. Interview with Kellen Mngoya, Sec'y Gen., HAFOTA, *supra* note 411.

590. *See* Interview with Chris Maina Peter, Professor, Univ. of Dar es Salaam Sch. of Law, *supra* note 364 ("There is no way you can connect your taxes to services.").

591. *Id.*

592. *See* Interview with Kellen Mngoya, Sec'y Gen., HAFOTA, *supra* note 411 ("This is not a resource problem; it's a problem of priority."); Interview with Ludovicka L.S.

dismay at what they saw as corruption at almost every level of government.⁵⁹³

Almost universally, Tanzanians expressed grave concerns about government's simple failure to respond to pressing urban needs,⁵⁹⁴ especially with respect to women.⁵⁹⁵ According to Professor Kironde, cities like Dar es Salaam badly need "strong management,"⁵⁹⁶ but that leadership is lacking, at least in the eyes of Tanzanians.⁵⁹⁷ Even those within government are frustrated with the level of commitment from both national and local government when it comes to urban housing issues.⁵⁹⁸ Not only is there a lack of national funding for housing-related programs, but local governments often lack the capacity or initiative to implement such programs.⁵⁹⁹ As one urban planner in the Ministry of Lands, Housing and Human Settlements put it, "Parliament knows about our constraints. . . . Housing is not Parliament's priority area—they prioritize health and education, but the basic needs for people in Tanzania are food, clothes, and

Tarimo, Project Dev. Specialist/Gender Advisor, USAID, *supra* note 386 ("The money isn't going to priority areas because of political decisions.").

593. See Interview with Tasilo Joseph Mahuwi, Managing Dir., Dunduliza, *supra* note 533 (indicating that government may be wary of SACCOs because of their potential social influence); Interview with Dr. Raz Stevenson, Health Officer, USAID, in Dar es Salaam, Tanz. (May 27, 2010) ("Petty corruption permeates every aspect of life That really makes life challenging for people living here.").

594. See Interview with Chris Maina Peter, Professor, Univ. of Dar es Salaam Sch. of Law, *supra* note 364 ("The government is not performing at all. The last government was performing as a government. I'm still to be shown one project by this government in four years.").

595. See Interview with Sara Cameron, Chief of Commc'ns, UNICEF, *supra* note 183 (indicating that the Ministry of Community Development, Gender and Children lacks the necessary infrastructure to engage with the issues fully); Interview with Kellen Mngoya, Sec'y Gen., HAFOTA, *supra* note 411 (expressing that the 30% quota of women in parliament is not effective).

596. Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., *supra* note 420.

597. See Interview with Sara Cameron, Chief of Commc'ns, UNICEF, *supra* note 183 ("[The g]overnment is very good at talking. . . . They're not very good at delivering."); Interview with Dr. Raz Stevenson, Health Officer, USAID, *supra* note 593 ("[The bureaucracy] is painful. It's often not clear why things take so long. The whole system ends up slowing down progress.").

598. See, e.g., Interview with Senior Town Planners, Ministry of Lands, Hous. and Human Settlements, *supra* note 546.

599. See *id.* ("At the end of the day, we don't get sufficient funding. The money is not sufficient, so we have to prioritize; we are responsible for policies, and local government is supposed to be implementing, but sometimes we have to intervene in local governments because they are doing [things] incorrectly.").

housing.”⁶⁰⁰ Ultimately, “the government needs to realize that housing is not an individual effort. The government needs to realize it is their job; they need to prioritize it in their budget. . . . [T]he local authorities need to play their role; they need to enforce these policies, or else they’ll be useless.”⁶⁰¹

b. Failure to Regulate Landlord–Tenant
Relationships Adequately

As discussed, the Tanzanian government no longer espouses a policy of slum clearance; rather, it seems to support residents’ efforts at “self-help”⁶⁰² wherein urban citizens construct their own homes, often on untitled or unlicensed land and incrementally, without excessive fear of arbitrary and unannounced evictions. To that end, Tanzanian policy has also long emphasized private home ownership while largely overlooking the rights of tenants.⁶⁰³ With the repeal of the Rent Restriction Act in 2005,⁶⁰⁴ many of the protections that were seen as pro-tenant⁶⁰⁵ were lifted, leaving tenants with little support from government or law. In sum, the government has “paid very little attention to housing,”⁶⁰⁶ and even less to rental accommodation.

This often means that renters in Tanzania’s urban settlements suffer the consequences of landlords’ arbitrary actions. Specifically, interviewees reported negative experiences in two main areas: (1) arbitrary increase of rent and (2) arbitrary evictions. Interwoven with these two issues was a general lack of notice. While both men and women experience these difficult

600. *Id.*

601. *Id.* (“At the top there are politicians, they don’t prioritize housing. They only make promises during elections.”).

602. *See* Cadstedt, *supra* note 84, at 48.

603. *See generally id.*

604. *See id.*

605. *Id.* (“[A] landlord can now evict a tenant (for missing a rental payment, violating the rental agreement, etc.) without having to go through the court system and tenants have also lost the right to apply to the courts for relief.” (internal citations omitted)).

606. Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous., and Human Settlements Dev., *supra* note 29 (“The problem in this city is that we have never put emphasis on urban development. We have always focused on rural areas. We have to prepare for these people who are coming because, otherwise, ‘urbanization’ will be ‘urbanization and poverty.’”).

rental conditions, single women reported that they frequently have to deal with the fallout of finding new shelter for their children and face extraordinary challenges raising funds to do so. In a large group interview of fifty women renters in Moshi, interviewees agreed that one of the biggest challenges they face is that "landlords raise rent without reason and notice."⁶⁰⁷ Sophia M., in Dar es Salaam, told the delegation, "If you've got money and cook good food, [the landlords] get annoyed unless you give them some food. If [the] landlord gets an offer of higher rent, he'll kick you out."⁶⁰⁸ Theckla, a Habitat for Humanity loan recipient who now lives in her own home with her husband, shared her renter's story:

The problem was the landlord most of the time. If the time for rent came and you don't have money, even if you try to explain, they will yell and insult you. In my case, he tried to increase rent to [TSh.] 30,000 monthly. I used to pay [TSh.] 10,000. He did this knowing I could not afford [it].⁶⁰⁹

Other women elaborated on their experiences with arbitrary evictions, which are common practice in poor settlements. Not only are renters asked to pay "three or four months ahead," but landlords "will chase you if you can't pay."⁶¹⁰ For many women, "[o]ne month's salary is not enough for one month's rent."⁶¹¹ Landlords also reportedly sell their rental accommodations without notice to tenants, which can result in rent hikes or evictions without warning.⁶¹² Women across Tanzania told the delegation their stories of being evicted by their landlords, often with little or no notice: "[The notice period] depends on the landlord. Three days, one month, one day. It depends."⁶¹³ One Morogoro woman said, "When they chase you, they give you time to remove your furniture. If you don't remove it, they put it

607. Interview with Anonymous Women, Kaloleni Settlement, *supra* note 508.

608. Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 378.

609. Interview with Theckla, Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

610. Interview with Representatives, MPLC, *supra* note 181; *see supra* notes 510, 525 and accompanying text.

611. Interview with Representatives, MPLC, *supra* note 181.

612. *See, e.g.*, Interview with Liz K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 432 (indicating that her home she was renting was sold without her knowledge and that the rent rates changed, "making it difficult to pay").

613. Interview with Representatives, MPLC, *supra* note 181.

outside. If you have paid, the landlord will allow you to take your belongings. Or, if you don't pay, they lock your things inside."⁶¹⁴ In Dar es Salaam, the story was similar, with landlords forcing their tenants to move immediately if they cannot afford rent increases: "[The] [l]andlord takes all your things and puts them outside If you are not careful, you may spend a night outside."⁶¹⁵

These arbitrary evictions are particularly problematic for women with children in urban areas, as most neighbors have only one room and cannot provide temporary shelter to evictees.⁶¹⁶ Angella K., a Dar es Salaam resident, shared her story of being evicted from a rented accommodation in Mwananyamala: "[The] [l]andlord went to [the] government[, the] police took my things and put them outside My children and I had to stay outside. . . . [I then] [s]tayed [outside] at a friend's [home, where I] piled the bricks until it was livable."⁶¹⁷ In sum, women in urban settlements live in fear of eviction, with landlords "free to plan anything [they] want[],"⁶¹⁸ and even formal leases offer little security. As Angella K. put it, "The law is there, but nobody follows it. The landlord is free to sell his home anytime he wants. Even if I have a [contract] . . . the [landlord] . . . has already gone away. It has happened to me."⁶¹⁹

c. The Special Case of Forced Evictions

As has already occurred in urban Tanzania, government efforts to address informal settlements will undoubtedly result in forced evictions. Article 24(2) of the Tanzanian Constitution requires that "fair and adequate compensation" be paid to any person "deprived of his property for the purposes of nationalization or any other purposes."⁶²⁰ However, according to interviewees, in many of the government-sponsored evictions that

614. *Id.*

615. Interview with Liz K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 432.

616. *See id.*

617. Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, in Dar es Salaam, Tanz. (May 21, 2010).

618. *Id.*

619. *Id.*

620. TANZ. CONST. art. 24(2).

have occurred in recent years,⁶²¹ two major issues impacting women's right to adequate housing have emerged as problematic: compensation and resettlement.

It is unsurprising that evictees across Tanzania complained of inadequate compensation. Men and women faulted both the amount of compensation they received and the lack of a transparent process for its calculation.⁶²² Most troubling given the low numbers of women who own land is the fact that only those who are "legally entitled to the land" appear to be compensated; those who "take land without permission" are "trespassing and are not compensated."⁶²³ Many residents of informal settlements who were given compensation told the delegation that they merely received a plot of land and no financial assistance for rebuilding.⁶²⁴ In addition, local authorities and NGOs complained about the lack of funding set aside in budgets to properly compensate evictees or those who had their land taken for easements in the settlements.⁶²⁵ Those who bring complaints about compensation amounts are usually left empty-handed. In other words, your claim will be registered with the government, "but you have to wait until the government wishes to pay you."⁶²⁶ As one NGO representative in Arusha put it, "The

621. See, e.g., COHRE, *supra* note 2, at 24; Tanzania, HOMELESS INT'L, <http://www.homeless-international.org/our-work/where-we-work/tanzania> (last visited Apr. 6, 2010) (describing forced evictions in Tanzania in recent years); see also RESETTLEMENT POLICY FRAMEWORK, *supra* note 567, at 2.

622. See Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., *supra* note 420 ("Usually there is a disagreement on the amount of compensation."); see also Kironde, *supra* note 556, at 20. In Arusha, the delegation learned that the community often contributes to compensation upon demolitions in informal settlements because the municipality lacks the funds to pay the entire cost of compensation. See Interview with Aron Talika, Town Planner, Arusha Mun., *supra* note 416.

623. See Interview with Said Hashim Kamsunbile, Attorney, Capital Dev. Authority, in Dodoma, Tanz. (May 19, 2010) (noting that residents without title must demolish their own homes and do not receive any compensation).

624. See Interview with Aida Kidolezi, Dir., Nala Mkazi Sav. Grp., in Dodoma, Tanz. (May 19, 2010) (noting that residents are "only given plots" and "no money to actually rebuild their houses").

625. See Interview with Aron Talika, Town Planner, Arusha Mun., *supra* note 416; Interview with John Materu, Advocate, AWLAHURIC, *supra* note 365.

626. Interview with John Materu, Advocate, AWLAHURIC, *supra* note 365.

houses will definitely be demolished, but you probably won't end up with compensation."⁶²⁷

In Dar es Salaam, the delegation interviewed women who had been displaced due to the port expansion at Kurasini settlements, which took place in 2006 and 2007, and the result of those conversations was clear: women suffer disproportionately with respect to compensation issues.⁶²⁸ In that case, approximately 36,000 people were affected by the evictions, and according to local government officials HIV/AIDS has gravely impacted the area, leaving many widows in its wake.⁶²⁹ In paying compensation, government officials looked only to land owners, to the detriment of tenants, a decision that impacts women disproportionately. In many cases, the owners of the properties—men—"took the money, left their wives, and then moved."⁶³⁰ In other instances, men who had abandoned their wives to live with second wives returned to Kurasini to claim the compensation.⁶³¹ Many of the women approached the government for assistance, but "the government said they paid already and [had] nothing more to do with [the situation]."⁶³² As a result, women were "left with nothing."⁶³³ In some cases, local government officials went

627. *Id.*; see also Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., *supra* note 420 (noting that individuals "can get a judgment against the government but can't enforce it.").

628. See, e.g., Interview with Anna C., DIAC, in Morogoro, Tanz. (May 20, 2010) ("The houses are crowded together because they are unplanned, they know they will have to move if the municipal government comes with the master plan. Some of us have already been eminent domained from another village, but the government paid . . . very little in compensation."); Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., *supra* note 420 ("Women suffer especially because money is given to the men as the head of the household.").

629. See Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426; Interview with Jane Magigita, WLAC, *supra* note 355.

630. Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426.

631. See Interview with Tim Ndezi, Exec. Dir., CCI, *supra* note 424.

632. Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., in Kurasini, *supra* note 426. In another evictions case at the airport in Dar es Salaam, many residents were compensated for the loss of their land and homes, and then sold the land to unsuspecting buyers. When the newcomers were told they would be evicted, the government claimed they had already paid and refused to pay again. See Interview with Lawyers & Paralegals, TAWLA *supra* note 286.

633. Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426. Many of these women started small businesses to pay their rent but could not raise enough money. Forced to take loans from friends and family, many defaulted and had their personal property, including mattresses, seized. See *id.*

directly to the banks to stop payment on the checks, but once a check is blocked it “takes a long time to sort out” and “all parties suffer,” especially the spouses and children.⁶³⁴ In addition, it also appears that in many cases no compensation is given when informal settlement buildings are condemned.⁶³⁵ With the prices of building materials steadily increasing⁶³⁶ and cumbersome building codes,⁶³⁷ evictees have little chance of meaningfully reestablishing their lives.

With respect to resettlement, similarly troublesome issues arose. Areas designated for the resettlement of evictees lacked infrastructure and were far from the city.⁶³⁸ For example, members of a women's housing collective in Dodoma reported that replacement plots for those seized by the government due to lack of development by their owners were “many kilometers” away and unsuitable for building “because there are no building materials or water out there.”⁶³⁹ At Kurasini, of an unknown number of owners who received land allocations as compensation, only about seven people built there; most sold their plots and moved to another informal settlement.⁶⁴⁰ This was because the area lacked roads and other infrastructure and was far from the city, thus impeding small business owners from traveling into the city as needed and virtually destroying those

634. Interview with Restina, Member, FUP, in Dar es Salaam, Tanz. (May 17, 2010).

635. See Interview with Aron Talika, Town Planner, Arusha Mun., *supra* note 416.

636. See Interview with Tabitha Siwale, Exec. Dir., WAT-Human Settlements, *supra* note 182 (“Prices are going up like rockets.”).

637. See Interview with Rose Daudi, Coordinator, HAFOTA, in Dar es Salaam, Tanz. (May 25, 2010). As a result of these codes and complex building permit requirements, many people build their homes on weekends, so they cannot be caught by local authorities, thus exacerbating the issue of informal settlements. See Interview with Bertha Mlonda, Principal Town Planner, Office of Settlements Regularization, Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 423; Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439.

638. See Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426. Note that in the case of the Kurasini evictions, those given compensation were “permitted” to buy land at Kibada, a resettlement location, at market price. *Id.*; see also Interview with Aida Kidolezi, Dir., Nala Mkazi Sav. Grp., *supra* note 624 (noting that resettlement plots in Dodoma are located “many kilometers from” residents’ current living areas).

639. Interview with Aida Kidolezi, Dir., Nala Mkazi Sav. Grp., *supra* note 624.

640. See Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426 (answering in response to a question about where people went after evictions, “[t]hey were allocated land but about fifty people actually went there. Only seven built there. Most sold that land and moved to another informal settlement to squat.”).

small informal businesses—owned primarily by women—that rely on local clientele to make ends meet.⁶⁴¹ On a positive note, the Centre for Community Initiatives has assisted many of the affected women of Kurasini to organize and rebuild their lives and homes in another, more appropriate location.

In 2008, the Tanzanian government issued its Resettlement Policy Framework, which guides involuntary evictions related to land reform under the Private Sector Competitiveness Project and complies with the World Bank policy for such evictions.⁶⁴² Although the Framework says little about gendered concerns that arise during forced evictions, several provisions offer some hope for the future, including one that provides for resettlement assistance to those who have no legal claims to the land they are occupying.⁶⁴³

In sum, women experience daily discrimination and must battle enormous legal, cultural, economic, and institutional obstacles when it comes to accessing and obtaining adequate housing in Tanzania. Their experience of both urban and rural areas is a continuing fight for security of tenure, and the housing that they are able to secure is frequently inadequate. The next Section explores the disproportionate impacts on women of the inadequate housing conditions in Tanzania's informal settlements.

B. *Inadequate Housing Conditions: Disproportionate Impacts on Women*

*"A house alone is not enough."*⁶⁴⁴

641. *See id.* ("People were doing small business and [Kibada, the area where the plots were located] is far from the city so it is hard to travel to the city for business, and there is no infrastructure like roads so it is hard.").

642. *See* RESETTLEMENT POLICY FRAMEWORK, *supra* note 567, at ix (describing compliance with the Private Sector Competitiveness Project ("PSCP") and the World Bank).

643. *See id.* at 10 (listing "[p]ersons with no recognizable legal right or claim to the land they are occupying [or] using" among categories of persons eligible for compensation or resettlement assistance). However, compensation rates are still set at market value, which has been problematic in the past. *See id.* at 11, 12 ("Compensation rates will be market rates as of the date and time that the replacement is to be provided").

644. *See* Interview with Residents, Morogoro Informal Settlement, *supra* note 470.

As a result of the multiple barriers discussed above, Tanzanian women often find themselves living in urban settlements where housing may be poorly constructed, unserviced, and even dangerous. The Tanzanian government has recognized that one of its primary challenges in the short term is “inadequately serviced land for shelter and human settlements, especially for women,” as well as “poor infrastructure and poor social services.”⁶⁴⁵ Tanzanian women’s status as primary caregivers along with the cultural norms that keep women in or close to the home⁶⁴⁶ mean that they experience the deprivations of inadequate housing more acutely and in different ways than men.

1. Heightened Health and Safety Concerns

*“Faced with this reality, it is urgent to challenge the misconception that the poor, especially those living in slums and other marginal areas, are responsible for social violence and environmental degradation. Indeed, they are the primary victims of such phenomena.”*⁶⁴⁷

Women residents of informal settlements are forced to grapple with a unique set of health and safety concerns. As discussed in Part II.A, violence is commonplace in the lives of Tanzanian women. Beyond domestic violence, which may often be exacerbated by conditions in informal settlements,⁶⁴⁸ women also discussed their particular vulnerability to violence outside the home in urban areas. In addition, they cited their increased exposure to HIV/AIDS and other diseases as a circumstance arising out of their residence in informal settlements. Finally,

645. MINISTRY OF FIN. & ECON. AFFAIRS, *supra* note 498, ¶ 2.3.4.

646. See Interview with Agnes Mwasumbi, Professor, Ardhi Univ., in Dar es Salaam, Tanz. (May 20, 2010) (“With women responsible for all this, there is no time for anything else.”); Interview with Wilberd Kombe, Professor, Ardhi Univ., *supra* note 349 (“[T]he unequal distribution of home responsibilities . . . force[s] women to spend more time in the house especially in low-income communities—childcare, getting water.”).

647. Kothari 2001/51, *supra* note 551, ¶ 64.

648. See Interview with Anna Holmstrom, Program Officer, UNFPA, *supra* note 327 (“Because of culture, if a man is found publicly beating his wife, the community will keep him in check in the rural areas because everyone knows everyone and everyone’s business. In urban areas, nobody knows each other. There is also an increased frustration and depression among men in urban areas as a reason for increased violence in urban areas against women.”).

informal settlements are home to an array of health risks arising out of polluted environments and overcrowding.

Many women discussed their vulnerability to crime and violence perpetrated by non-family members. Most common were complaints about women's heightened vulnerability during trips to fetch water or to use outdoor toilets; in numerous cases, this vulnerability means that they simply cannot leave their homes after dark.⁶⁴⁹ On a related note, dangerous traffic conditions often make such activities extremely hazardous.⁶⁵⁰ Women in Dar es Salaam, Morogoro, and Moshi reported that their communities are unsafe due to numbers of unemployed youth who break into the homes of women living in the settlements,⁶⁵¹ that thieves often wait until they leave their homes to rob them, that criminals beat or rape women, and that for women in cities conditions have "gotten worse. It's a tough life."⁶⁵² Interviewees universally reported that they either knew of women or would not be surprised to hear of women who had been raped or attacked in their settlements.⁶⁵³ Effective policing is lacking: "When you bring a thief to the police, you go home later that day and the thief is there waiting for you"; however, some community groups, including the FUP, have formed community policing units to assist with minor crimes, providing much-needed support to official police forces and freeing them

649. See Interview with Margaret D., DIAC, in Dodoma, Tanz. (May 20, 2010) (explaining that she does not leave the house at night even to go to the bathroom); see also Interview with Residents, Morogoro Informal Settlement, *supra* note 470 (noting landlord-imposed curfews).

650. See Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 378 (describing how crossing the main road to get water can cause accidents); Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 617 (explaining how some children have been hurt crossing the road to get water).

651. See Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352.

652. Interview with Mwamtoro K., Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010); see also Interview with Junior M., Client, MPLC, in Morogoro, Tanz. (May 17, 2010) (describing a recent break-in); Interview with Hawa, Client, TAWLA, *supra* note 528 (noting presence of burglars); Interview with Preska N., Client, MPLC, *supra* note 389 (noting that women who work late at night are particularly at risk for both criminal attacks and stigma: "People are spreading rumors about women who work late—that they are prostitutes.").

653. See Interview with Hawa, Client, TAWLA, *supra* note 528 (describing the likelihood of being raped); Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 528; Interview with Juliana L., Member, WOWAP, *supra* note 487.

to work on larger cases.⁶⁵⁴ The “real police are very grateful for [their] work.”⁶⁵⁵

In addition to these safety concerns, women also described their increased vulnerability to illness and disease in informal settlements. Some women reported that their homes were built on or near dumping areas, which hosted mosquitoes and contributed to the spread of malaria, while others cited inadequate drainage and sewage facilities as contributing to cholera infections.⁶⁵⁶

Of course, many women move to cities for their proximity to hospitals and schools; however, it is clear that the number of hospitals, their staffing levels, and the lack of medication in hospitals pose a serious threat to all residents of informal settlements, especially women. In Kurasini, residents reported having to take two buses to get to a hospital—an expensive endeavor—only to find that there may not be any medicine available upon their arrival.⁶⁵⁷ Prudencia T. described the situation in her settlement in Dar es Salaam:

We have a single dispensary. The hospital is not enough, and we struggle a lot because we must travel very far and pay, which is hard considering our income is so low. [The] [m]ajority of us try to go to Temeke Hospital, but the problem is that [there are] too many people and they make you pay before treatment, so someone may die because they don't have money to pay⁶⁵⁸

654. Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352; *see* Interview with Members, FUP, *supra* note 354.

655. Interview with Members, FUP, *supra* note 354.

656. *See* Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426 (describing the biggest problem as being the combination of sewage, disease, and lack of access to hospitals). In Hanna Nassif, one resident who benefited from a housing loan provided by WAT-SACCO reported that his upgraded house meant “less malaria.” Interview with Kenneth S., *supra* note 586. Traditional mud and wattle houses have “small windows,” which means individuals must go outside to get any air.” Interview with Naomi Makota, Cmty. Dev. Officer, WAT-Human Settlements Trust, *supra* note 584. “If you go outside, you will come back with malaria. But if you have good ventilation . . . that means you can spend your time in your house.” *Id.*

657. *See* Interview with Felista Komba, Street Level Chairperson and Chair, CCI Small Grp., *supra* note 426. Women in Moshi reported a similar problem. *See* Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352 (“[T]here is one hospital nearby but there is no medicine in the hospital.”).

658. Interview with Prudencia, Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

Settlement residents in Dodoma simply declared, "We need a hospital!"⁶⁵⁹ Similar problems arose in Moshi, where women seeking medications in hospitals were referred to private facilities, which they could not afford.⁶⁶⁰ According to USAID representatives, this problem is not uncommon throughout urban Tanzania.⁶⁶¹ More broadly, Tanzania suffers from a severe lack of medical professionals,⁶⁶² in most cases abortions are illegal,⁶⁶³ and there is only one hospital that includes a gender-based-violence focus in its work.⁶⁶⁴

Furthermore, widows who have been forcibly evicted from their matrimonial homes are likely to experience health and food insecurity, and the linkage between disinheritance of widows and AIDS-related deaths has been confirmed.⁶⁶⁵ Because these women often cannot return to their families, they are left without land and access to food resources, and may migrate to cities where they live in perpetually insecure environments and suffer related health consequences.⁶⁶⁶

Equally alarming are the health and safety risks women face due to their limited employment opportunities. This lack of formal employment pushes many women into sex work, where "women can't negotiate male condom use," and "almost no female condoms" exist in Tanzania.⁶⁶⁷ While prostitution is illegal in Tanzania, police reportedly only target women for arrest, and

659. Interview with Members, WOWAP, *supra* note 438.

660. See Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352 (noting that hospitals often "refer [women] to pharmacies or private hospitals which the women can't afford").

661. See Interview with Ludovicka L.S. Tarimo, Project Dev. Specialist/Gender Advisor, USAID, *supra* note 386 ("You go to the hospital for drugs that are supposed to be free, but they're not there so they tell you to go to the private hospital and they are there, but you have to pay.").

662. See Interview with Christine Mwanukuzi-Kwayu, Nat'l Program Officer, UNFPA, *supra* note 368 ("Tanzania has one tenth of the medical professionals recommended by the World Health Organization.").

663. See *id.*; see also Denise Grady, *The Deadly Toll of Abortion by Amateurs*, N.Y. TIMES, June 2, 2009, at D1.

664. See Interview with Anna Holmstrom, Program Officer, UNFPA, *supra* note 327.

665. See ANNA KNOX & RENEE GIOVARELLI, USAID, LAND TENURE, PROPERTY RIGHTS, AND HIV/AIDS 5-6 (2009).

666. See *id.* at 5.

667. Interview with Emmanuel Mziray, GIPA Advisor, UNAIDS, *supra* note 501. Moreover, "if a woman tests [HIV] positive, she is condemned by her family; she is a whore." *Id.*

thus the buying of sex is left without consequence.⁶⁶⁸ One anonymous interviewee living at House of Peace told the delegation that, where she had previously stayed in Dar es Salaam, "there [were] a lot of women I know who have begun to sell their bodies."⁶⁶⁹ On a related note, women also reported that domestic workers may experience rape and gender-based violence, as well as wage abuse.⁶⁷⁰

2. Poor Quality of Housing and Unavailability of Building Materials

At the most basic level, women living in poor urban settlements expressed frustration at the quality of their homes, a discussion that explored issues of overcrowding, poor quality materials, impossible-to-meet building standards, and weather-related hazards. Single women especially suffered from these inadequate conditions because of "low income [and] high rent,"⁶⁷¹ and were left with no alternatives for housing themselves and their families.

Overcrowding is a primary concern. Reportedly, the average family living in a single room is three children plus the mother.⁶⁷² At a large group meeting of HIV-positive women in Kaloleni settlement, thirty women reported living in one-room homes, while the remaining ten women live in just two rooms.⁶⁷³ In some instances, children sleep in the corridors of these rented homes,⁶⁷⁴ and women also report cooking in corridors,⁶⁷⁵ a practice that raises serious safety concerns. Sophia M., a member of the Kisamaja Women Housing Cooperative Society who is

668. See Interview with Emebet Admassu, P'ship and Advocacy Advisor, UNAIDS, *supra* note 500.

669. Interview with Anonymous Client No. 1, House of Peace, in Dar es Salaam, Tanz. (May 26, 2010).

670. See, e.g., with Festa Andrew, Program Officer, Women's Dignity, *supra* note 456 (noting that the government is trying to tackle these abuses through a range of new initiatives).

671. Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 378.

672. See Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352.

673. See *id.*

674. See Interview with Anna Y., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 517.

675. See Interview with Christina M., Client, MPLC, in Morogoro, Tanz. (May 17, 2010).

living in one room with her four children—boys and girls—told the delegation that she simply cannot afford more rooms.⁶⁷⁶ As a result, her children do not have “space to concentrate on studies,” and when she bathes, Sophia must “send [the children] outside for their studies,” which “makes their grades suffer.”⁶⁷⁷ One client of TAWLA reported that she was “not happy” with her life: “The population, number of people, is too big in the house.”⁶⁷⁸ This overcrowding also means that, because people are living in one-room houses, “the children experience the sex their parents have.”⁶⁷⁹ Representatives of the National Housing and Building Research Authority (“NHBRA”), a quasi-governmental research and training facility charged with developing affordable housing methods and materials, told the delegation that the biggest challenge with respect to upgrading informal settlements is the sheer lack of space between and within homes.⁶⁸⁰

Poor quality structures and a severe shortage of affordable and durable building materials contribute further to the hazards women face in informal settlements. Not only are materials prohibitively expensive, but the demand for such materials is high, and outdated building codes, government bureaucracy, and a severe lack of research funding frustrate the efforts of agencies such as the NHBRA.⁶⁸¹ A large proportion of the women interviewed reported that they live in mud homes,⁶⁸² while others described their homes as of a “low” standard, constructed of “poor quality materials,” with “no doors, no windows.”⁶⁸³

676. See Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 378.

677. *Id.*

678. Interview with Hawa, Client, TAWLA, *supra* note 528.

679. Interview with Festa Andrew, Special Assistant to the Representative, UNFPA, *supra* note 456.

680. See Interview with G.M. Kawiche, Chief Exec., NHBRA, in Dar es Salaam, Tanz. (May 27, 2010).

681. See Interview with Elias Kwanama, Manager of Research & Development, NHBRA, in Dar es Salaam, Tanz. (May 27, 2010). The NHBRA has recently developed a new method of building homes involving interlocking bricks, which do not rely on expensive cement as an adhesive agent, but the method violates “colonial regulations” and building codes. See Interview with G.M. Kawiche, *supra* note 680. Moreover, NHBRA representatives decried the lack of funding they receive to develop new affordable building strategies and teach these skills to local residents. See *id.*

682. See, e.g., Interview with HIV-Positive Women, Juhudi Women’s Grp., *supra* note 352 (approximately half of the group reporting that they live in mud homes without water or electricity).

683. Interview with Residents, Morogoro Informal Settlement, *supra* note 470.

Repeatedly, these women requested that the government find some way to “reduce the price of building materials” to make them more “accessible.”⁶⁸⁴ According to NHBRA representatives, “Even for a mid-salary person, it is too expensive to build housing.” The problems are concentrated in informal settlements: “In rural areas, the problem is not quantity of housing but quality of materials. In urban areas, it is both.”⁶⁸⁵

The issues of overcrowding and poor quality structures are heightened during Tanzania's rainy season and, more generally, during any time of crisis. Many of the dense settlement areas are so overcrowded that emergency services vehicles cannot access them, and roads within the settlements are in such a state of disrepair that local transport has become an impossibility. During the rainy season, which typically runs from November into May,⁶⁸⁶ flooding and wholesale destruction of poorly constructed homes is not uncommon.⁶⁸⁷ In Dodoma, Violet M., age forty-one and a mother of four children, told the delegation how, upon the death of her husband in 1993, she rented a home while she built her own place. However, “the house fell in the rains—it was made of mud Though the rain destroyed my home, I'm still living there.”⁶⁸⁸ In Dar es Salaam, the problems were similar. Adelphina, a Habitat for Humanity client, reported that the biggest challenge for women living in unplanned urban settlements, “especially in low-lying areas, is that the water collects and gets into the house and ruins everything.”⁶⁸⁹ All thirteen women present at a meeting of Kisamaja Women Housing Cooperative Society members in Dar es Salaam indicated that their homes flooded during the rainy season.⁶⁹⁰ Elizabeth K. told the delegation that “there is a drainage system,

684. Interview with Members, Nala Mkazi Sav. Grp., in Dodoma, Tanz. (May 19, 2010).

685. Interview with Michael L.L. Mpuya, Cmty. Dev. Officer & Senior Research Sociologist, *supra* note 545.

686. See *Weather Center*, BBC, Tanzania, http://www.bbc.co.uk/weather/world/country_guides/results.shtml?tt=TT000680 (last visited Apr. 6, 2010).

687. See Interview with HIV-Positive Women, Juhudi Women's Grp., *supra* note 352 (“There is a problem of flooding during the rainy season. I had to move out of my house because of the flooding.”).

688. Interview with Violet M., Member, DIAC, *supra* note 580.

689. Interview with Adelphina, Client, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010).

690. See Interview with Members, Kisamaja Women Hous. Coop. Soc'y, *supra* note 494.

but it's not that good, because when there are heavy rains, it gets blocked. So when you want to go out, water can reach above your knees."⁶⁹¹ Thus, she must stay home whenever it rains heavily in her settlement.⁶⁹² Anna Y., another Kisamaja Cooperative member, cited flooding in her home as one of the most challenging aspects of living in such conditions,⁶⁹³ and Kenneth S., a community official in Hanna Nassif, added that traditional mud and wattle homes can be "very dangerous because the roof . . . leak[s] and the mud [subsides] when it rains."⁶⁹⁴ As a result of these conditions, the Lawyers' Environmental Action Team ("LEAT") has entered into litigation over waste water entering homes and pipes leaking polluted materials into residential areas in Mbagala, and is looking to file a case focusing on illegal dumping sites in residential areas.⁶⁹⁵

3. Severe Lack of Infrastructure and Basic Services

*"Does the lack of basic services in settlements affect women more?
Definitely."*⁶⁹⁶

Adding to the challenges posed by poor quality homes is the lack of basic services in informal settlements. Universally, women interviewed expressed their dismay at the lack of services in their settlements, including sanitation,⁶⁹⁷ water, and electricity, as well as their inability to afford such services where they do exist.⁶⁹⁸

691. Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 528.

692. *See id.*

693. *See* Interview with Anna Y., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 517.

694. Interview with Kenneth S., *supra* note 586. One of the first people in Hanna Nassif to qualify for multiple housing micro-finance loans from WAT SACCO, Kenneth S. is now "very happy" with a home that is "made of bricks." *Id.*

695. *See* Interview with Representatives, LEAT, *supra* note 519. Note that the National Strategy for Growth and Poverty Reduction acknowledges the spread of urban settlements to "shazard-prone lands such as steep slopes, flood plains, river valleys, and dumpsites." MINISTRY OF FIN. & ECON. AFFAIRS, *supra* note 498, ¶ 2.3.4. However, it appears that little has been done to declare such sites off limits to builders.

696. Interview with Wilberd Kombe, Professor, Ardhi Univ., *supra* note 349.

697. For purposes of this Report, the term "sanitation" refers to the management of sewage, garbage, and household and natural wastewater.

698. *See* Interview with Members, FUP, *supra* note 354 (noting that their biggest challenge is "water supply and sanitation"); Interview with Lawyers & Paralegals, TAWLA, *supra* note 286 (indicating that most settlement residents "cannot afford" basic

Although this issue impacts all residents of informal settlements, it is once again the women—especially the single women—who bear the brunt of household chores and care-giving and who spend the majority of their time in the settlements grappling with these issues.⁶⁹⁹ Stamili H., of Morogoro, explained to the delegation that she lives without water and electricity in a home with her husband (who has a second wife), two children, and three grandchildren, and has no job. To run this household, she buys water on a rotating basis from her neighbors, some of whom live nearby and others farther away. When asked what could be improved about her life, she astutely answered “a decent toilet” for everyone in her community, as well as “water services available to everybody . . . this should be a task for the government. I think the government has a role to play in raising the living standard of its people by modernizing their social services like water, good houses, [and] decent toilets”⁷⁰⁰ Without access to basic services, such women are forced not only to navigate alternative solutions, but also face increased risks of exposure to disease and gender-based violence, among other hazards.⁷⁰¹

services); Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 29 (“The main problem we have is infrastructure and services. They are grossly lacking.”).

699. See, e.g., WHO & UNICEF, PROGRESS ON SANITATION AND DRINKING-WATER 29 (2010) (indicating that, in developing countries, “it is usually women who go to the source to collect drinking-water”); Interview with Robert Mhamba, Professor, Inst. of Dev. Studies, Univ. of Dar es Salaam, *supra* note 180 (“Women are more vulnerable where services are not provided, especially water. They’re more vulnerable to diseases like HIV/AIDS [T]he burden is on them: they sweep streets, do odd jobs. They have to work hard.”).

700. Interview with Stamili H., Member, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010). See generally Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, *Rep. of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, Addendum: Progress Report on the Compilation of Good Practices*, Hum. Rts. Council, U.N. Doc. A/HRC/15/31/Add.1 (July 1, 2010) (by Catarina de Albuquerque) (delineating the criteria used to define best practices with respect to water and sanitation services provision); Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, *Rep. of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation*, Hum. Rts. Council, U.N. Doc. A/HRC/15/31 (June 29, 2010) (by Catarina de Albuquerque) (elaborating on the role of nonstate actors in provision of water and sanitation services).

701. See, e.g., AMNESTY INT’L, *supra* note 7, at 17. By the government’s own admission, “Hygiene is also constrained by shortages of water and soap and poor waste

Adequate housing “has generally been understood to include access to sanitation facilities. Indeed, it is difficult to imagine characterizing a habitation as adequate if sanitation facilities are not available within the vicinity or are inadequate or unsafe to use.”⁷⁰² In 2010, the UN General Assembly and the Human Rights Council recognized the right to safe and clean drinking water and sanitation as a human right derived from the right to an adequate standard of living.⁷⁰³ Globally, the use of improved⁷⁰⁴ sanitation facilities in urban areas is much higher than in rural areas; however, the percentage of the population gaining access to such facilities is decreasing in urban areas as urbanization levels increase.⁷⁰⁵ Tanzania is matching this trend, with the rapid growth of its cities, coupled with governmental inaction,⁷⁰⁶ resulting in increasing sanitation problems. While

disposal practices. Water-borne diseases, especially diarrhoea and dysentery, remain significant health challenges in this environment, and dehydration caused by severe diarrhoea is a major cause of morbidity and mortality among Tanzanian children.” MINISTRY OF FIN. & ECON. AFFAIRS, *supra* note 498, ¶ 2.3.3; *see also* Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, *Rep. of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation*, Hum. Rts. Council, ¶ 51, U.N. Doc. A/HRC/12/24 (July 1, 2009) (by Catarina de Albuquerque) [hereinafter de Albuquerque 2009] (“The disproportionate impact of lack of access to sanitation on girls and women has been well researched. Girls often drop out of school when their menstruation begins since schools frequently lack ‘girls only’ or otherwise appropriate sanitation facilities. When relatives become sick from sanitation-related diseases, women and girls often stay home to care for them, missing work and school. Furthermore, women and girls face security risks when they are forced to relieve themselves or to defecate in the open, or walk to toilets in the dark. Because of widespread discrimination against women, they are not included in the formulation of relevant policies, and therefore, their needs tend to be neglected.”); *cf. id.* ¶¶ 55–59 (arguing for a distinct right to sanitation and framing the issue as one involving human dignity).

702. de Albuquerque 2009, *supra* note 701, ¶ 20 (arguing for a distinct right to sanitation); *see also* General Comment No. 4, *supra* note 1, ¶ 8(b).

703. *See* Human Rights Council Res. 15/9, *supra* note 150, ¶¶ 2, 3; G.A. Res. 64/292, ¶ 1, U.N. Doc. A/RES/64/292 (Aug. 3, 2010); *see also supra* note 150 and accompanying text.

704. The UN defines “improved sanitation” as those conditions that “ensure hygienic separation of human excreta from human contact,” and include the use of flush/pour flush toilets to piped sewer systems, septic tanks, or pit latrines; ventilated improved pit latrines, pit latrines with slabs, or composting toilets. *See* WHO & UNICEF, *supra* note 699, at 12.

705. *See id.* at 16.

706. *See* Interview with Dr. Raz Stevenson, Health Officer, USAID, *supra* note 593 (“Everything that is modern requires infrastructure and that isn’t happening.”); Interview with Tumsifu Jonas Nkya, Dir. of Hous., Ministry of Lands, Hous. and Human

urban Tanzanians have seen some upgrades in their access to improved sanitation facilities, those upgrades have barely kept pace with overall population growth.⁷⁰⁷ In fact, at 32% in 2008, Tanzania boasts one of the lowest rates of use of improved sanitation facilities in urban areas in the world.⁷⁰⁸

Residents of informal settlements interviewed for this Report confirmed their inability to access improved sanitation.⁷⁰⁹ In a large group meeting in Daraja Mbili, residents described sanitation facilities as pit latrines, indicating that ten households share one latrine, and one resident described the situation in Unga Limited as 300 people to one toilet.⁷¹⁰ In Morogoro, residents faced a similar situation, describing circumstances in which approximately fifteen people share a single pit latrine and reporting that “toilets aren’t clean because so many people use them” and landlords are lax about upkeep.⁷¹¹ Christina M. of Morogoro agreed, describing her situation as ten families sharing two toilets.⁷¹² Settlement residents in Dar es Salaam further confirmed what appears to be a common crisis across the city, which involves overcrowded facilities,⁷¹³ having to pay to use

Settlements Dev., *supra* note 29 (discussing the historical lack of urban planning in Tanzania).

707. See WHO & UNICEF, *supra* note 699, at 51.

708. See *id.*

709. Note that, for purposes of MDG monitoring, shared sanitation facilities are considered “facilities of an otherwise improved type that are either public or shared between two or more households. Sharing of improved sanitation facilities is most prevalent in urban areas Among the different regions, using a shared facility is most common in urban Sub-Saharan Africa (31%)” *Id.* at 23. Shared facilities are not considered “improved” sanitation facilities. See, e.g., *id.* at 51.

710. See Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439. CCI works closely with members of FUP and ward and street level leaders to assist communities to build improved toilets. At least forty-four toilets have been constructed thus far, with additional training programs and loan opportunities in place. See *id.*

711. See Interview with Representatives, MPLC, *supra* note 181.

712. Interview with Christina M., Client, MPLC, *supra* note 675.

713. See Interview with Hawa, Client, TAWLA, *supra* note 528 (describing conditions as “more than twenty people” sharing one toilet); Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 617 (describing how she and her children “share with twenty or more families and children”); Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 378 (describing conditions as fifty people sharing one toilet); Interview with Members, FUP, *supra* note 354 (describing conditions as “ten to twenty people per toilet, up to thirty people”).

facilities,⁷¹⁴ or having to share facilities with local bars, restaurants, or markets.⁷¹⁵ In sum, problems arise from the sheer number of people sharing facilities, the smell, a continual overflow of sewage, and poorly constructed drainage pipes.⁷¹⁶

Cleaning the latrines is complicated. In Arusha, residents reported being charged about TSh. 40,000 to TSh. 50,000 for trucks to come and evacuate the latrines when they become full; tenants bear the responsibility of cleaning and emptying latrines.⁷¹⁷ In many cases, rather than pay such fees, residents simply cover the old pit and dig a new one.⁷¹⁸ This was also a common response in Dar es Salaam.⁷¹⁹ To make matters worse, representatives of the Dar es Salaam Water and Sewerage Corporation ("DAWASCO") confirmed that, when floods from the rainy season come, water often mixes with the sewage and the sewage pipes, where in place, leak into the streets.⁷²⁰ Residents of the settlements are also known to open sewage cesspools and septic tanks, if they have them, allowing flood waters to sweep away the sewage, instead of paying cleaning fees of about TSh.

714. See Interview with Kidala R., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 435 (explaining that she must pay "3,000 TSh per month for the family to use the toilet").

715. See Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 617 (describing how "some share with a bar or restaurant or people from the market").

716. See Interview with Members, FUP, *supra* note 354 (describing sanitation problems related to the number of people, the smell, and overflows); Interview with Representatives, Dar es Salaam Water and Sewerage Corp. [DAWASCO], in Dar es Salaam, Tanz. (May 26, 2010) (describing sanitation and water problems related to broken and old pipes and overflows); Interview with Shamimu J., Client, TAWLA, *supra* note 516 (noting that she used to live near a dump site and that "sewers ran near the road").

717. See Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439.

718. See *id.*

719. See, e.g., Interview with Sophia M., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 378 ("We have to pay for sewage trucks. For some, they don't come and take sewage; they dig another hole and cover the hole."); Interview with Kidala R., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 435 ("The group moves and buries the toilet once a year.").

720. See Interview with Representatives, DAWASCO, *supra* note 716. DAWASCO representatives estimate that 90% of Dar es Salaam's residents use latrines or offsite toilets, while only 10% have access to formalized sewage services. See *id.* DAWASCO is responsible for the supply of water in the Dar es Salaam area, and operates under a contractual arrangement with the Dar es Salaam Water and Sewerage Authority. See WATERAID IN TANZANIA, WHY DID CITY WATER FAIL?: THE RISE AND FALL OF PRIVATE SECTOR PARTICIPATION IN DAR ES SALAAM'S WATER SUPPLY i (2008).

100,000 in Dar es Salaam.⁷²¹ More generally, sewage treatment plants in Dar es Salaam were described as “good,” but not yet up to WHO standards;⁷²² and those fortunate enough to have direct access to the city’s sewer system must grapple with old pipes and numerous illegal connections being made.⁷²³

Collection of household garbage poses similar hazards because local authorities lack the capacity to make regular collections, and households are often required to pay for waste collection according to district by-laws.⁷²⁴ In limited geographical areas, civil society has begun to respond to this pressing issue. For example, in Arusha, teams of settlement residents have mobilized to assist local authorities with this issue, collecting much of their own household waste; however, challenges arise because local authorities are unable to collect all the waste to bring it to distant dump sites, and the roads in informal settlements “cannot support garbage trucks.”⁷²⁵ These residents, members of the FUP’s Participatory Hygiene and Sanitation Transformation (“PHAST”) waste collection team, signaled that the reason for their organization was a response to the government’s failure to provide this basic service.⁷²⁶ In other parts of Tanzania, women reported that they simply “dig a hole and fill it with garbage until it’s full”⁷²⁷ or burn their trash.⁷²⁸

721. See Interview with Representatives, DAWASCO, *supra* note 716.

722. See *id.*

723. See *id.* See generally WATERAID IN TANZANIA, *supra* note 720.

724. See Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439. In fact, the PHAST group in Arusha has been recognized by the municipality, so members now receive payment for the collection work they do. See *id.* Further, the World Bank is currently assisting with an upgrading project to provide better roads and trash collection equipment. See *id.*; see also Interview with Representatives, LEAT, *supra* note 519 (discussing waste collection issues).

725. Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 439; see also Interview with Representatives, DAWASCO, *supra* note 716 (indicating that there is “not enough space to collect”).

726. See Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 438.

727. Interview with Jamila J. & Mariam M., Members, Tupawaki Widows Grp. (Kihonda), in Morogoro, Tanz. (May 18, 2010); see also Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 528.

728. See Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 528.

Access to clean water raises the same concerns.⁷²⁹ Just as with sanitation, the use of improved drinking-water sources in the region is much more likely in urban areas than in rural areas, but “[i]ncrease in the use of improved drinking-water sources is barely keeping up with the urban population growth.”⁷³⁰ Certainly, it is difficult to tell whether urban settlements have access to improved drinking water, where so many people rely on bottled water or water from wells of unknown origins.⁷³¹ However, statistics indicate that the number of Tanzanian urban residents with access to improved facilities has fallen from 94% in 1990 to 80% in 2008.⁷³² The Tanzanian government acknowledges that “the poor still spend[] a significant share of labour and time (especially in rural areas) and income (especially in urban areas) on accessing water.”⁷³³

In settlements visited by the delegation, the lack of access to water was obvious.⁷³⁴ A lack of graded roads, sparse legal documentation of land rights, rusted water pipes laid during the German era more than 100 years ago, and a lack of standardization with respect to drainage and water supply facilities mean that the unplanned areas are “chaotic,”⁷³⁵ and few interviewees had access to water via the cities’ piped supplies.⁷³⁶ Representatives of DAWASCO indicated that their ability to provide water services in Dar es Salaam was “not proportional” to the sharp increase in urban residents and that the city was currently gripped by a “water crisis.”⁷³⁷ Some residents reported using public water points, but most said that they met their

729. Of the 884 million people worldwide who lack access to improved sources of drinking water, more than one-third lives in sub-Saharan Africa. *See* WHO & UNICEF, *supra* note 699, at 7.

730. *Id.* at 18.

731. *See id.* at 34 (defining “improved drinking-water” sources).

732. *See id.* at 51; *see also id.* at 30 (discussing the gaping socio-economic disparities at play in sub-Saharan Africa with respect to access to improved sanitation and drinking-water facilities).

733. MINISTRY OF FIN. & ECON. AFFAIRS, *supra* note 498, at 16.

734. *See* Interview with Representatives, DAWASCO, *supra* note 716 (noting that the majority of settlement residents “have nothing, no well, no surface water”).

735. *Id.*

736. In fact, representatives of DAWASCO indicated that they serve 91,000 customers in Dar es Salaam, a drop from the previous level of 161,000. *Id.* Those customers do not always have water and do not always pay. By 2013, DAWASCO aims to increase service levels from the current 28% to 80% in homes. *See id.*

737. *Id.*

household water needs by purchasing bottled water or paying neighbors for access to their water supplies.⁷³⁸ Those renting stressed to the delegation that they had “no power to bring electricity or water to their room[s] even if they wanted to.”⁷³⁹ Women especially “suffer a lot to get water,” including waiting for hours each day, “wasting a lot of time fetching water.”⁷⁴⁰

In urban areas, it seems that the distance traveled to access water is generally not too far;⁷⁴¹ however, some women reported that they were forced to rotate among neighbors to avoid taxing any particular family repeatedly and that rotation increased distances.⁷⁴² Those who purchase water also described having to travel more than an hour or more than two kilometers to reach sellers (“guys with cans”).⁷⁴³ In addition, sometimes those sellers or neighbors who live nearby refuse to sell their water and women are then forced to “keep looking, house to house” for another supplier.⁷⁴⁴

Most residents must pay private or informal service providers for their water, which raises additional concerns. Although those responsible for managing the public water points are not

738. See, e.g., Interview with Representatives, Daraja Mbili Ward Offices & FUP, *supra* note 438 (reporting that 30% of residents have water in their homes and that others use a public water point); Interview with Representatives, MPLC, *supra* note 181 (indicating that there is no community tap; instead residents pay neighbors for water, who then pay water authority officers); Interview with Members, FUP, *supra* note 354 (noting that, of approximately thirty members interviewed, only six reported having clean water in their homes; others fetch water from neighbors' pumps); Interview with Stamili H., Member, Tupawaki Widows Grp. (Kihonda), *supra* note 700 (saying she pays her neighbors for water); Interview with Adelphina, Client, Habitat for Humanity, *supra* note 689 (saying she pays her neighbors for water).

739. Interview with Anna C., DIAC, *supra* note 628.

740. Interview with Representatives, DAWASCO, *supra* note 716; see also Interview with Agnes Mwasumbi, Professor, Ardhi Univ., *supra* note 646 (“For example, water. Women must deal with all the deficiencies of the settlement while men can leave the home and go to work.”).

741. See, e.g., Interview with Fatuma A. & Hadija A., Clients, TAWLA, in Dar es Salaam, Tanz. (May 19, 2010) (noting that water is “within calling distance”).

742. See Interview with Stamili H., Member, Tupawaki Widows Grp. (Kihonda), *supra* note 700.

743. See Interview with Hawa, Client, TAWLA, *supra* note 528 (“The whole area where they live, every person has this problem.”); Interview with Clients, Habitat for Humanity, in Dar es Salaam, Tanz. (May 19, 2010) (noting that water is “very far”); Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc’y, *supra* note 617 (describing a two kilometer journey to fetch water).

744. See Interview with Representatives, DAWASCO, *supra* note 716.

permitted to charge more than DAWASCO would,⁷⁴⁵ many residents reported difficulties paying their water fees generally. With fees charged by the bucket or liter at public water points or by neighbors, women complained of being unable to afford to wash clothes, as fees add up to TSh. 2000 or more per day.⁷⁴⁶ Prices varied dramatically among interviewees, ranging from TSh. 100 to TSh. 200 per bucket⁷⁴⁷ to TSh. 300 to TSh. 400 for 20 liters⁷⁴⁸; drilling one's own borehole could cost up to US\$3000.⁷⁴⁹ The possibility for exploitation is clear. Moreover, DAWASCO reports that only half of its customers regularly pay their water bills.⁷⁵⁰

Residents also complained of dirty water, sporadic water shut offs, and overcrowding. On multiple occasions, interviewees used such terms as "terrible"⁷⁵¹ or "salty"⁷⁵² to describe urban water supplies. Angella K. of Dar es Salaam told the delegation that the water she collects is "not safe because it is water from ponds."⁷⁵³

Stories of water scarcity were also common, with electricity outages blamed for shortages every two to three months, due to an inability to pump water from wells.⁷⁵⁴ In Hanna Nassif, residents complained that water taps often only reliably work from midnight to two a.m., and are shut off at other more convenient times.⁷⁵⁵ Still others complained that water supplies are routinely cut for two to three days,⁷⁵⁶ and often for periods up to two weeks,⁷⁵⁷ forcing residents to purchase water from vendors

745. *See id.*

746. *See* Interview with Kidala R., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 435.

747. *See* Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 617.

748. *See* Interview with Hawa, Client, TAWLA, *supra* note 528.

749. *See* Interview with Lawyers & Paralegals, TAWLA, *supra* note 286.

750. *See* Interview with Representatives, DAWASCO, *supra* note 716.

751. Interview with Yohana K., Member, WOWAP, *supra* note 477.

752. Interview with Shamimu J., Client, TAWLA, *supra* note 516.

753. Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 617.

754. *See* Interview with Clients, Habitat for Humanity, *supra* note 743.

755. *See* Interview with Residents, Hanna Nassif, in Dar es Salaam, Tanz. (May 18, 2010).

756. *See* Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 528.

757. *See* Interview with Angella K., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 617.

at exorbitant prices.⁷⁵⁸ Also common were complaints of taps ceasing to work both suddenly and permanently,⁷⁵⁹ a complete lack of DAWASCO services,⁷⁶⁰ and public water pipes breaking.⁷⁶¹ Large numbers of residents are forced to share community water distribution points, at times entire villages or hundreds of people.⁷⁶²

Finally, and perhaps felt less universally than the lack of water, residents complained of a lack of electricity. Both NGOs and private residents cited power cuts due to energy being "poorly organized."⁷⁶³ Almost everyone interviewed reported that electricity was too expensive, both on a per use basis and when connecting to main lines.⁷⁶⁴

In short, Tanzanian women live in a climate of insecurity when it comes to housing. The national government has already taken steps with respect to recognition of these issues generally and in partnering with international institutions to tackle the complications arising from rapid urbanization. It is only with the government's sustained and specific attention to the gendered aspects of these issues that women will attain their rightful place as equal citizens of this newly urbanized landscape.

758. *See id.*

759. *See* Interview with Rukia S., Client, TAWLA, *supra* note 376; Interview with Anna Y., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 517.

760. *See* Interview with Rehema, WLAC, in Dar es Salaam, Tanz. (May 20, 2010).

761. *See* Interview with Representatives, DAWASCO, *supra* note 716 (noting that old pipes often rupture when pressure changes).

762. *See* Interview with Residents, Hanna Nassif, *supra* note 755 (indicating that 200 to 300 people share community water tanks); Interview with Fatuma A. & Hadija A., Clients, TAWLA, *supra* note 741 (speculating that up to 1000 people share the community water point); Interview with Elizabeth N., Member, Kisamaja Women Hous. Coop. Soc'y, *supra* note 528 (indicating that 100 people share the community water point).

763. Interview with Grace Murungi, Dir., & Meck Samuel Marick, Coffee Coop. Quality Manager, Envirocare, in Moshi, Tanz. (May 17, 2010).

764. *See* Interview with Philemon Ndesambura & Lucy F. Owenya, Members of Parliament, *supra* note 584; Interview with Representatives, MPLC, *supra* note 181 (describing electricity as "very expensive"); Interview with Lawyers & Paralegals, TAWLA, *supra* note 286 (discussing the expense and time required to electrify a home).

III. GOVERNMENT INITIATIVES AND RECOMMENDATIONS

A. Government Action on Informal Settlements: A Very Brief Overview

Indisputably, the human rights issues arising from Tanzania's proliferation of informal settlements impact both men and women. Nonetheless, women experience these hardships disproportionately due to laws and norms that enforce their societal subordination. The settlements have garnered substantial attention from government ministries and international institutions in recent years, but the disparate impact of settlement life on women has been largely overlooked in proposed and ongoing efforts to improve conditions. Not only do such programs appear to be underfunded and fragmented, but more must be done to ensure that women benefit from them directly.

One major initiative involves the regularization of land in urban areas. Kicked off in 2002, the 20,000 Plots program aimed to increase the number of surveyed plots available for residential housing in Dar es Salaam. Although it arrived on the tail of a number of similar initiatives that largely had failed due to lack of resources and follow-through,⁷⁶⁵ the current scheme has "generally been a success," resulting in 40,000 surveyed plots in 2009⁷⁶⁶ and leading to plans to regularize all unplanned settlements within the next ten years.⁷⁶⁷ According to representatives of the Ministry of Lands, Housing and Human Settlements, there has been some preference for women who apply for plots; however, the reality is that most heads of household are men and that nearly 70% of those applying for residential licenses (the precursor to obtaining full title) are men.⁷⁶⁸ In conjunction, the regularization of plots should lead to improved services once the government is aware of how many

765. See MINISTRY OF LANDS, THE 20,000 PLOTS PROJECT IN DAR ES SALAAM CITY, 2002/2003–2005/2006, *available at* http://mail.ardhi.go.tz/projects/20000/20K_Plots_Intro.pdf (last visited Apr. 6, 2011).

766. UN-HABITAT et al., CITYWIDE ACTION PLAN FOR UPGRADING UNPLANNED AND UNSERVICED SETTLEMENTS IN DAR ES SALAAM 39 (2010), *available at* <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3033>.

767. See Interview with Bertha Mlonda, Principal Town Planner, Office of Settlements Regularization, Ministry of Lands, Hous. and Human Settlements Dev., *supra* note 423.

768. See *id.*

people live in each area. By the government's own admission, the regularization scheme is an ambitious one. In response to questions about its likelihood of success, Professor Nnkya told the delegation, "It's true. It's very difficult. But you start with a vision and ambition."⁷⁶⁹

Plans for upgrading Tanzania's informal settlements are equally complex. Not only are NGOs, community-based organizations ("CBOs"), and individuals working piecemeal to upgrade individual neighborhoods where possible, but Dar es Salaam local authorities, with the support of national government, the Cities Alliance Programme, UN-HABITAT, and the World Bank, have also formulated a Citywide Action Plan ("CAP") "to upgrade 50 per cent of all existing unplanned and unserviced areas by 2020, and to prevent the formation of new unplanned settlements in Dar es Salaam."⁷⁷⁰ At the time of the delegation's visit in May 2010, CAP had just been presented to donors and was awaiting further action; no financing had been secured for the housing portion of the program, which hopes to improve the range, quality, and availability of housing finance and home improvement loans.⁷⁷¹ The goal of CAP "is to coordinate various activities being done around the city. It brings people together to find out what everyone is doing."⁷⁷²

Among numerous other plans with various targets and goals⁷⁷³ is the Community Infrastructure Upgrading Programme ("CIUP"), which is being implemented by Dar es Salaam City Council in partnership with the World Bank and allows high-density, low-income settlement communities to select various upgrading projects, including roads, drainage, public toilets, and

769. Interview with Tumsifu Jonas Nnkya, Dir. of Hous., Ministry of Lands, Hous., and Human Settlements Dev., *supra* note 29.

770. UN-HABITAT et al., *supra* note 766, at 3; *see also* Interview with Rachel Kaduma, Cities Alliance Program Coordinator, & Kenneth Sinare, Non-Fin. Services Manager, Gatsby Trust, in Dar es Salaam, Tanz. (May 26, 2010) (discussing upgrading plans).

771. *See* UN-HABITAT et al., *supra* note 766, at 63.

772. Interview with Rachel Kaduma, Cities Alliance Programm Coordinator, Gatsby Trust, *supra* note 770.

773. In addition to the Citywide Action Plan ("CAP") and Community Infrastructure Upgrading Programme ("CIUP"), *see* UN-HABITAT et al., *supra* note 766, at 34–44, for other ongoing initiatives. *See also* Interview with Margareth Mazwile, Cmty. Dev. Officer, Dar es Salaam City Council, in Dar es Salaam, Tanz. (May 24, 2010).

street lights, given a set budget.⁷⁷⁴ Within the CIUP's parameters, communities are expected to contribute 5% of the total costs of their chosen projects, while the World Bank contributes 85% and the City Council contributes the remaining 10%.⁷⁷⁵ Through the CIUP, several communities have seen decreases in cholera rates and improved housing, although many residents are selling their upgraded properties for market value and moving out of the settlements, and others have had their homes demolished to make way for the projects.⁷⁷⁶ CIUP upgrading projects take approximately five years and require World Bank approval at every stage.⁷⁷⁷

As discussed, academics, activists, and even some government officials remain skeptical of the government's ability to succeed in its upgrading goals.⁷⁷⁸ In order to avoid the fragmented approach taken by such programs in the past, Professor Kironde sees the need for a "bottom-up approach" that includes the voices of the local and international partners working on regularization and upgrading issues, as well as the communities themselves.⁷⁷⁹ CAP acknowledges the failure of past upgrading schemes, noting that many participants, including women and tenants, "felt that they had been victimized by false claims . . . and were not in support of upgrading schemes unless they were informed and consulted about the plans prior to their implementation."⁷⁸⁰ To that end, CAP authors and CIUP administrators have emphasized the involvement of women and youth in determining its priorities for settlement upgrading.⁷⁸¹ Tellingly, in community meetings where such priorities are set, "women are always for water and men are always for roads. It's because women are always carrying the water. Women also go for

774. See Interview with Margareth Mazwile, Cmty. Dev. Officer, Dar es Salaam City Council, *supra* note 773.

775. See *id.*

776. See *id.*

777. See *id.*

778. Professor Kironde refers to the CAP as "not terribly ambitious." Interview with J.M. Lusagga Kironde, Professor, Ardhi Univ., *supra* note 420. Kironde is serving as a consultant on the CAP program.

779. See *id.* (noting a recent example of water-pipe upgrading that led to water being diverted from other areas).

780. UN-HABITAT et al., *supra* note 766, at 29.

781. See *id.*; Interview with Rachel Kaduma, Cities Alliance Program Coordinator, Gatsby Trust, *supra* note 770.

hospitals and health centers.”⁷⁸² Ultimately, whether the ambitious plans will succeed remains to be seen.

Settlement residents interviewed for this Report had mixed emotions and reactions to questions about upgrading programs. As acknowledged by CAP, residents were wary of new plans. In Morogoro, women described to the delegation “a government initiative to improve the living situation, but no progress has been made. The initiative is five years old; we’ve seen no delivery, only promises from the new government.”⁷⁸³ Others explained that there is no upgrading happening, but said that “it would be a good thing,” and in Dodoma women called for basic services upgrading, declaring that the “government should provide water and electricity” at affordable prices.⁷⁸⁴ Specifically, they complained that the Capital Development Authority (“CDA”), which manages land allocation in Dodoma, “give[s] you a plot and say[s] you will get a road, but you never get a road.”⁷⁸⁵ The complaints were similar in Dar es Salaam, where Mwamtoro K. said that she still has relatives in the city “who are living in poor housing—no floors, no toilets.”⁷⁸⁶

Settlement upgrading is undoubtedly controversial given that it entails difficult decisions about the use of limited resources and frequently involves the eviction of long-time residents. Whether upgrading programs in Tanzania will positively impact women’s lives depends largely on the commitment of national and local governments, and their international partners, to consulting women throughout the lengthy process and to ensuring timely completion of their proposed plans. Without consultation and follow-through, all residents—but especially women—will be unable to progress toward full realization of their right to adequate housing.

B. *Recommendations*

The Tanzanian government is to be commended for the steps it has taken to comply with its obligations under

782. Interview with Margareth Mazwile, Cmty. Dev. Officer, Dar es Salaam City Council, *supra* note 773.

783. Interview with Members, Tupawaki Widows Grp. (Kihonda), *supra* note 384.

784. Interview with Aida Kidolezi, Dir., Nala Mkazi Sav. Grp., *supra* note 624.

785. *Id.*

786. Interview with Mwamtoro K., Client, Habitat for Humanity, *supra* note 652.

international law, especially under the ICESCR and CEDAW. The proliferation of informal settlements in urban areas is a phenomenon that is clearly rooted in economics and in history; however, the issues women face in relation to their arrival in and experience of informal settlements arise from deeply entrenched legal and cultural discrimination, extreme economic disempowerment, and long-term political marginalization. In short, further action must be taken to ensure that Tanzanian women can claim their right to adequate housing.

1. Recommendations to the Government of Tanzania:

a. General

Local and national government should bolster their support of NGOs and CBOs working with settlement residents on construction projects, including the building of improved toilets and low-cost durable housing, and social services projects, including community policing programs, sanitation disposal brigades, and HIV/AIDS support groups, among others.

National government should finalize and promulgate its National Housing Policy, which will provide guidance to local governments on how to develop settlement areas, and should provide both material and implementation support via training and budgetary allocations to local government authorities.

To the greatest extent possible, national government should ensure that urban planners in the Ministry of Lands, Housing and Human Settlements have adequate resources to implement upgrading and development schemes. Urban planning and housing must be a priority nationally.

The national government should ensure that the voice of CHRAGG is heard on the national level. Ensuring adequate budgetary resources and incorporating recommendations made by the Commission into national policies will support the advancement and entrenchment of human rights principles in Tanzania.

Tanzania should incorporate economic, social, and cultural rights into its constitution, aligning its domestic law with its international legal obligations. In addition, human rights provisions already in the constitution should be made justiciable in domestic courts.

b. Legal

Reform of Tanzania's discriminatory inheritance framework has been stalled for decades, with the current multi-pronged system effectively ensuring that nearly all Tanzanian women will become homeless or landless during their lives. Government should immediately implement a nondiscriminatory statutory scheme applicable to all Tanzanians that provides for equal inheritance rights among women and men. Further investigation of an opt-out clause for those wishing to adhere to other schemes is warranted.

The Law of Marriage Act outlaws the use of corporal punishment by one spouse against another; however, it fails to enumerate a criminal penalty for such abuse. Amendment to the law to do so should be made immediately, and women should have access to an efficient legal system that will prosecute instances of domestic violence and provide all necessary support services. Government should also amend legislation that outlaws rape to include the criminalization of marital rape.

Confusion about recent amendments to Tanzania's mortgage-consent clause is rampant. Bank officers, NGOs, CBOs, and legal aid agencies should be provided with clarification. In addition, investigation into the gender-specific implications of these amendments should be made, with further revisions implemented if required.

c. Cultural

Through its regularization program, national government should ensure that women are given priority in the provision of land titles. Married men should be strongly encouraged to include their wives on land titles and registration licenses.

Currently operating domestic violence shelters and crisis centers should be provided with full governmental political and material support. New shelters should be opened to meet the enormous demand from abused women seeking temporary housing, and government should declare its support of such shelters in an effort to foster positive public attitudes toward them.

In order to comply with CEDAW's Article 5, government should implement educational programs aimed at eliminating

cultural discrimination against women in the home and in their communities, especially emphasizing Tanzania's new HIV/AIDS anti-discrimination legislation.

d. Institutional

Legal education programs aimed at raising awareness of Tanzania's legal process and women's rights under Tanzanian law should be implemented. Emphasis should be placed on instructing women on how to access existing legal aid networks. These training programs should specifically target women, the police, and lower level judicial officials. All trained parties should be aware that discriminatory cultural norms, bribery, and corruption have no place in enforcement of the law.

Existing legal services providers targeting low-income women are desperately in need of financial and material support. To the extent possible, government should prioritize these organizations in its national budget.

Tanzanian renters, which are primarily women, currently lack robust legal protections. Landlord-tenant relations, including rent regulation, building sales, and baseline repairs, should be monitored more closely, and a transparent complaint mechanism should be implemented.

Ensuring that women have access to credit and housing microfinance loans will enable them to expand their income-generating activities and improve their housing conditions. Interest rates should be capped as appropriate.

In the case of forced evictions, Tanzania should ensure that women are provided with notice through easily accessible avenues. Renters should be given special consideration when it comes to relocation and compensation, as should women whose names are not included on titles or licenses. Offers of resettlement should take into account proximity of employment prospects and social support networks.

e. Conditions within Settlements

All upgrading programs instituted by national government, local government, or international partners should continue to ensure that women's voices are heard and considered in decisions about infrastructure and development. Upgrading and

mapping programs should be followed through to their ends, in order to build trust among settlement communities.

The disconnect between taxes paid to local authorities and basic services provided should be remedied. To the extent possible, government should improve roads to improve access by necessary medical personnel and sanitation trucks.

Currently, women expend disproportionate energy, time, and money in obtaining water for their families. Government should ensure that community water points are in working order and that every family has at least one working point within close proximity to home. Coordination among private, public, and international groups working to ensure improved access to clean water is of the utmost importance.

The implementation of gender desks in police stations is a remarkable step forward in ensuring women's ability to access justice. In addition to further developing this program, security for women residents of informal settlements should be equally improved through proper lighting at night, regular patrols, and expansion of community policing networks.

2. Recommendations to the UN and the International Community

The United Nations should expand the role of UN-HABITAT in urban Tanzania, increasing staff and providing broader resources for community development projects.

The international community should assist Tanzania to fulfill its international obligations by addressing the proliferation of unplanned urban settlements. Such assistance should be in the form of technical advice and material support, while ensuring that women residents of such settlements have a voice in all development plans.

CONCLUSION

*"This is not a resource problem; it's a problem of priority."*⁷⁸⁷

Throughout Tanzania, the delegation heard stories of the discriminatory factors that push women into informal

787. Interview with Kellen Mngoya, Sec'y Gen., HAFOTA, *supra* note 411.

settlements, as well as the impacts of women's inability to access basic services or to ensure their own health and safety in those settlements. The issue is a complicated one, and in every city the delegation visited it was clear that hope and ingenuity are flourishing in the settlements. Repeatedly, Tanzanian women described the extraordinary daily challenges they face, including widespread discrimination, gender-based violence, and an overall inability to secure any semblance of tenure—through inheritance or otherwise—and yet, unsurprisingly, their primary concern was for their children. Without ensuring that women have equal access to healthy and safe housing, and the economic means to secure it, there is little prospect that their concerns will lessen and their lives will improve.

Tabitha Siwale, executive director of WAT-Human Settlements Trust, envisions a Tanzania where “the people . . . will be able to live in better houses, in [a] good environment.”⁷⁸⁸ In order to comply with its international legal obligations and to ensure that this vision is met, Tanzania must do more with respect to ensuring women's right to adequate housing.

788. Interview with Tabitha Siwale, Exec. Dir., WAT-Human Settlements, *supra* note 182.

ANNEX I: January 2010 Itinerary

*Preliminary Trip by Katherine Hughes to Arusha, Dar es Salaam,
Moshi, and Morogoro, Tanzania*

Friday, January 22, 2010: Dar es Salaam

Mutinta Munyati, Partners & Youth Unit, UN-HABITAT
Phillemon Mutashubirwa, Country Manager for Tanzania,
UN-HABITAT

Saturday, January 23, 2010: Dar es Salaam

Rose Daudi, Coordinator, Habitat Forum Tanzania
Tabitha Siwale, Executive Director,
Women's Advancement Trust ("WAT")-Human
Settlements Trust
Anna Tibaijuka, Executive Director, UN-HABITAT,
Under-Secretary-General, United Nations (now
retired)
Stephen Wanjala, Housing Microfinance & Housing
Development Technical Advisor, WAT-Human
Settlements Trust

Sunday, January 24, 2010: Dar es Salaam

Victoria Mandari, Secretary of the Board, National
Housing Corporation and Tanzania Women Lawyers
Association Representative
Catherine Matasha, Law Student
Camil Ruhinda, Law Student
Amy Wood, Associate Legal Officer, UN International
Criminal Tribunal for Rwanda

Monday, January 25, 2010: Arusha

Elly Kirenga, Principal Town Planner, Arusha Municipality
Martha Lyimo, Coordinator & Paralegal, Arusha Women
Legal Aid and Human Rights Center
("AWLAHURIC")
Tim Ndezi, Executive Director, Centre for Community
Initiatives ("CCI")
Residents, Daraja Mbili Settlement

Tuesday, January 26, 2010: Moshi

William Raj Gali, Director, Mkombozi
James Kisarika, Branch Manager,
National Housing Corporation
Grace Murungi, Director, Envirocare Moshi

Wednesday, January 27, 2010: Dar es Salaam

Scolastica Jullu, Executive Director, Women's Legal Aid
Centre
AnnMarie Mavenjina Nkelame, Executive Director,
Tanzania Women Lawyer's Association
Professor Tumsifu Jonas Nnkya, Director of Housing,
Ministry of Lands, Housing and Human Settlements
Development
Juvenal Rwegasira, Legal Officer, Women's Legal Aid
Centre
Representatives, US Embassy

Thursday, January 28, 2010: Dar es Salaam

Lilian Liundi, Tanzania Gender Networking Programme
Maria J. Mwaffisi, Permanent Secretary to the Ministry of
Community Development, Gender and Children
Ananilea Nkya, Executive Director, Tanzania Media
Women's Association ("TAMWA")
Local Government Officials, Hanna Nassif
Representatives, Envirocare, Dar es Salaam

Friday, January 29, 2010: Morogoro & Dar es Salaam

Anna Henga, Lawyer, Legal and Human Rights Centre
Harold Sungusia, Lawyer, Legal and Human Rights Centre
Joe L.P. Lugalla, Professor of Anthropology & Chair of the
Anthropology Department, University of New
Hampshire
Flora Masoy, Coordinator, Morogoro Paralegal Centre

Saturday, January 30, 2010: Dar es Salaam

Phillemon Mutashubirwa, Country Manager for Tanzania,
UN-HABITAT

ANNEX II: May 2010 Itinerary

*Crowley Delegation Fact-Finding Trip to Arusha, Dar es Salaam,
Dodoma, Moshi, and Morogoro, Tanzania*

Moshi & Arusha Team Itinerary, May 17–21, 2010**Moshi: Monday, May 17, 2010**

TIME INTERVIEW

- 1030 Meeting with Envirocare
Grace Murungi, Director
Samuel Meck Marick, Coffee Cooperative
Quality Manager
- 1230 Meeting with Community Members in Majengo
Ward, Moshi Urban District
Mrs. Mushi, Chairperson of the Ward
75 anonymous HIV-positive women from the Juhudi
Women's Group, residing in Kiboriloni, Majengo,
Msaranga, and Njoro wards
- 1600 Kaloleni Ward Meeting and Tour
Violet Kessey, Social Worker and District Coordinator
of Women against AIDS in Kilimanjaro
("KIWAKKUKI")
50 anonymous women

Moshi: Tuesday, May 18, 2010

- 0930 Radio Interview at Moshi FM Limited
Deus Mworia, General Manager, Moshi FM
Grace Murungi, Envirocare
Johannes Lindenberg, Envirocare Volunteer
- 1030 Interview with Members of Parliament
Philemon Ndesambura, Member of Parliament from
Moshi (CHADEMA)
Lucy F. Owenya, Shadow Minister/Member of
Parliament from Moshi (CHADEMA)

- 1230 *Primus O. Kimaryo*, Director of Coffee Quality &
 Promotion, Tanzania Coffee Board
- 1430 Meeting with Mkombozi
 William Raj Gali, Director
 Daddy Hassan, Social Worker
 Florah Mote, Office Attendant
 Amani Lucas, Community Engagement Facilitator
 Herry Adili, Social Worker
 Devoth Mushi, Nurse
 Nina Mollel, Social Worker and Street Outreach
 Program Coordinator
- 1615 Meeting with the National Housing Corporation
 (“NHC”), Moshi
 Tillya Wenceslaus, Land Economy Surveyor
 Juma Kiaramba, National Housing Corporation
 Employee

Arusha: Wednesday, May 19, 2010

- 0900 Meeting with Arusha Municipality Officers
 Elly Kirenga, Principal Town Planner
 Aron Talika, Town Planner
- 1030 Meeting with Officials of Daraja Mbili Ward &
 Members of the Arusha Federation of the Urban
 Poor (“FUP”)
 Monyaletti J. Lyaro, Mtaa Executive Officer
 Evetha T. Mboye, Ward Executive Officer
 Neema Kalumna, Ward Health Officer
 Mahija Rajabu, Arusha FUP Leader
 Adella Mbawala, FUP HIV Group Coordinator
 Issa Mwaimu, FUP Advocacy Committee Member
 Athanas Chenya, FUP Community Police Coordinator
- 1130 Group Meeting with approximately 50 FUP
 Members in Daraja Mbili Ward

1430 Group Meeting with approximately 40 FUP
Members in Daraja Mbili Ward

1630 House Tour in Daraja Mbili

Arusha: Thursday, May 20, 2010

0930 Individual Meeting with *Halima Yusufu* in Alinyanya
settlement

1045 Individual Meeting with *Amina Suleiman Kafimbi* in
Alinyanya settlement

1500 Meeting with Tanzania Millennium Hands
Foundation ("TAMIHA")
Crispin Mugarula, Founder & CEO
Moody Drondi, Operation Manager
30 Anonymous Members of TAMIHA Savings Group

Arusha: Friday, May 21, 2010

0830 Meeting with Arusha Women's Legal and Human
Rights Centre ("AWLAHURIC")
Martha Lyimo, Coordinator & Paralegal
Grace Soka, Paralegal
John Materu, Advocate
Charles Ngereza, Paralegal & Freelance Journalist

1100 Group Meeting with Clients of AWALHURIC,
including
Aisha
Ali
Apallelo
Betty
Evelyn
Gibson
Jina
John
Martha

Princilla

Sara

Zanice

1500 Individual Meetings with *35 Clients of AWALHURIC*

Dar es Salaam Team Itinerary, May 17–21, 2010

Monday, May 17, 2010

1000 *Felista Komba*, Street Level Chairperson and Chair,
CCI Small Group, Kurasini Ward, Temeke
District

11am Group Meeting with approximately 30 FUP
Members in Kurasini Ward, Temeke District,
including
Asha M.
Lestina K.
Margaret
Scolastica K.

1515 Group Meeting with approximately 15 FUP
Members in Chamazi Ward, Temeke District,
including
Muhina T., Foreman & Member
Said S., Chair at Kurasini Ward
Elizabeth M., Member
Asahati H., Member

1600 Individual Meetings with FUP Members in Chamazi
Ward, Kurasini District, including
Elizabeth M.
Fatuma J.

1800 Dinner with ASPH/CDC Allan Rosenfield Global
Health Fellows, Global AIDS Program, Centers for
Disease Control and Prevention
Imee Lynn G. Cambronero
Tom Pyun

Tuesday, May 18, 2010

- 0830 Meeting with Tanzania Women Lawyers Association
AnnMarie Mavenjina Nkelame, Executive Director
Grace Mkinga, Head of Legal Aid Department
Christa Shonga, Volunteer Legal Officer
Zera Josephat, Legal Intern
- 1100 *Naomi Makota*, WAT-Human Settlements Trust
Community Development Officer
- 1130 Group Meeting with 41 *Hanna Nassif Community*
Members, including
Abasi M.
Agnes M.
Ally A.
Ally L.
Amina F.
Amina M.
Anthony S.
Bibi H.
Cotrida M.
Dandas K.
Deo M.
Elisha G.
Esier M.
Frida M.
Godfrey C.
Hassani K.
Hemedi M.
Hussein M.
Jafari M.
Jamila M.
Julia N.
Juma M.
Kenneth S.
Mlawwa M.
Mrs. L.

Mshote E.
Mwajuma M.
Oby G.
Ormani U.
Pily M.
Robert U.
Rocky S.
Sabinas M.
Said N.
Salama A.
Salama M.
Sara N.
Shwahali R.
Sikitiko M.
Suzana T.
Zainabu M.

1300 Driving and Walking Tour of Hanna Nassif
 Community
Kenneth Simon, Resident of Hanna Nassif & WAT
 Chairperson
Mama Nyaki, Resident of Hanna Nassif

1500 *Kenneth Simon*, Resident of Hanna Nassif & WAT
 Chairperson

1700 *Chris Maina Peter*, Professor of Law, University of Dar
 es Salaam School of Law

Wednesday, May 19, 2010

1030 Individual Meetings with Clients of the Tanzania
 Women Lawyers Association
Doris
Fatuma
Hadija
Hawa
Joha
Mariam

Nelly
Rukia
Shamimu

2pm Individual Meetings with Members of Habitat for
 Humanity at Mbagala Ward, Temeke District
Gloria Matunda, Credit Officer
Theresia Temba, Credit Officer
Adelphina
Asha
Domina
Elijawa
Elisabeth
Fatuma
Grace
Jarya
Mariam
Mwamtoro
Prudencia
Shinunu
Tausi
Theckla
Zuhura

Thursday, May 20, 2010

0900 *Barjor E. Mehta*, Senior Urban Specialist, Africa
 Urban and Water Group ("AFTUW"), World
 Bank

1030 *Phillemon Mutashubirwa*, UN-HABITAT Country
 Manager for Tanzania

1330 *Jane Magigita*, Legal Officer, Women's Legal Aid
 Centre ("WLAC")

1530 Individual Meetings with *WLAC Clients*

1600 Meeting with Faculty Members of Ardhi University

Wilberd J. Kombe, Professor of Urban Land
Management & Director of Institute of Human
Settlement Studies

Agnes Mwasumbi, Land Economist

- 1800 *Rasmus Hundsbæk Pedersen*, Ph.D Candidate at the
Danish Institute for International Studies
(specializing in Tanzanian land reform)

Friday, May 21, 2010

- 1000 Group Meeting with Members of the Kisamaja
Women Housing Cooperative Society, including

Angella K.

Anna Y.

Elizabeth N.

Haika M.

Hainaich M.

Kidala R.

Liz K.

Moyo S.

Rehema M.

Roza N.

Rukia S.

Sophia M.

Tumaini M.

Zaina M.

- 1100 Individual Meetings with Members of the Kisamaja
Women Housing Cooperative Society

Angella K.

Anna Y.

Elizabeth N.

Kidala R.

Rehema M.

Sophia M.

Morogoro & Dodoma Team Itinerary, May 17–21, 2010

Morogoro: Monday, May 17, 2010

- 1105 Meeting with Clients of the Morogoro Paralegal Centre
Flora Masoy, Coordinator
Christina M.
Junior M.
Preska N.
Sajiro
Simon
- 1315pm Meeting with Community Members Living in Mchuma Street, Kichangani Ward
Isabela Katungutu, Counselor & Founding Member, Morogoro Paralegal Centre
Regina Solomon, Accountant, Morogoro Paralegal Centre
Aisha A.
Asha I.
Avelina K.
Chiku R.
Isabela K.
Jacob K.
James J.
Jelly M.
John J.
Joyce K.
Mwanahawa M.
Nikolaus M.
Pili A.
Revina G.
Salama S.
Sebastian M.
Sharifa C.
Tatu Y.
Tausi R.
Telesphory N.
Veronika J.
Zahra A.
Zainabu R.

Morogoro: Tuesday, May 18, 2010

- 1100 Group Meeting with 17 Members of Tupawaki
 Widows Group (Kihonda), including
 Rahema, Deputy
 Mariam M., Chairperson
 Fausta N., Secretary
- 1500 Morogoro Paralegal Centre
 Flora Masoy, Coordinator
 Isabela Katungutu, Counselor & Founding Member,
 Morogoro Paralegal Centre
 Regina Solomon, Accountant, Morogoro Paralegal
 Centre
- 1630 *Juvenal Rwegasira*, Legal Officer, Women's Legal Aid
 Centre

Dodoma: Wednesday May 19, 2010

- 1030 Capital Development Authority ("CDA")
 Said Hashim Kamsunbile, CDA Attorney
 Delfina Mathias, CDA Town Planner
 Movidick Skilla, CDA Town Planner
- 1230 Presentation to Students and Faculty of the Institute
 of Rural Development Planning, including
 Mark Msaki, Assistant Lecturer
 Constantine S. Lifuliro, Rector
 B.D. Sebyiga, Deputy Rector
- 1600 Meeting with Members of Nala Mkazi Savings Group
 Mrs. Aida Kidolezi, Director
 Agripina L.
 Fatuma K.
 Khalid A.
 Lydya K.
 Monica K.
 Mrs. Badili M.
 Mrs. Benjamero M.

Mrs. Christina K.
Mrs. Farida M.
Mrs. Karista M.
Mrs. Medard R.
Mrs. Munish
Mrs. Mwesa
Mrs. Neema S.
Mrs. Nelly M.
Mrs. Nelly P.
Mrs. Redenta S.
Mrs. Victor M.
Nuru M.
Rev. Yona M.
Rose K.
Shabani A.

Dodoma: Thursday May 20, 2010

- 1115 Meeting with Members of Anti-Female Genital
Mutilation Network ("AfNet"), including
Sara Mwaga, Executive Director
Stella, Financial Officer
Bili, Volunteer
Dani S.
Janet M.
Julia K.
Mariamamu S.
Mary
Merina L.
Rebeka M.
- 1200 Meeting with Members of Dodoma Inter-African
Committee ("DIAC") and Residents of Veyula
Village
Jennifer Chiwute, Director
David Kusehya, Pastor
Anna C.
Beatrice M.
Dainess F.

Doris E.
Elizabeth M.
Ester L.
Ezeleda L.
Frola C.
Lucy S.
Magreth D.
Maria A.
Mariam M.
Mary A.
Melaciana S.
Melea S.
Moleni M.
Paulina M.
Pendo J.
Scola J.
Secilia M.
Vailet M.

1530 Meeting with Women Wake Up ("WOWAP")
Dodoma Paralegal Unit
Fatma Toufiq, Director & Paralegal Coordinator
Angela T.
Asia A.
Fortunata M.
Hawa B.
Jane M.
Juliana L.
Kulwa H.
Loveness J.
Magreth K.
Magreth M.
Merina N.
Shuffa I.
Sulafa A.
Victoria M.
Wende M.
Yohana K.

1830 Dinner with Dr. Mark Msaki and colleagues

Dar es Salaam Itinerary, May 24–29, 2010

Monday, May 24, 2010

1000 *Margareth Mazwile*, Community Infrastructure
Upgrading Program (“CIP”) Coordinator, Dar es
Salaam City Council

1100 *Daimu S. Mkwawa*, Program Specialist,
Decentralization & Local Development, UN
Capital Development Fund

1200 Meeting with UNAIDS
Luc Barriere-Constantin, Country Coordinator
Emebet Admassu, Partnership & Advocacy Advisor
Emmanuel Mziray, Advsiior (GIPA—Greater
Involvement of People Living with AIDS)

1400 *Maria J. Mwaffisi*, Permanent Secretary to the
Ministry of Community Development, Gender
and Children

1600 University of Dar es Salaam School of Law
Palamagamba John Kabudi, Dean
Kennedy Gastorn, Associate Dean
Khoti A.C. Kamanga
B.T. Mapunda
Sengondo Mrungi

Tuesday, May 25, 2010

1015 Meeting at WAT-Human Settlements Trust
Tabitha Siwale, Executive Director, WAT-Human
Settlements Trust
Pauline Shayo, Manager, WAT Savings and Credit Co-
Operative Society

1200 Meeting with Habitat Forum Tanzania
Kellen Mngoya, Secretary General

Rose Daudi, Coordinator

- 1200 *Sara Cameron*, Chief of Communication & Partnerships, UNICEF Tanzania
- 1230 Meeting with Law Reform Commission of Tanzania
Adam J. Mambi, Deputy Executive Secretary, Law Reform Commission
Tabitha Siwale, Executive Director, WAT-Human Settlements Trust
Judith Odunga, National Coordinator, Women in Law and Development in Africa ("WiLDAf")
Anna Meela-Kulaya, Program Officer, Legal Education & Training, WiLDAf
- 1400 Dar es Salaam Community Bank
Edmund P. Mkwawa, Managing Director
Haika Machai, Housing and Credit Officer
- 1400 *Abel Mwaisela*, Branch Manager, PRIDE Tanzania
- 1630 Meeting with Lawyers' Environmental Action Team ("LEAT")
Emmanuel S. Massawe, Executive Director
Stanislaus S. Nyembea, Program Officer
- 1630 *Bertha Mlonda*, Principal Town Planner, Office of Settlements Regularisation, Ministry of Lands, Housing and Human Settlements Development
- 1900 *Nikhil Narayan*, Chief of Party, Tanzania, Public International Law & Policy Group ("PILPG")

Wednesday, May 26, 2010

- 0730 *Tumsifu Jonas Nnkya*, Director of Housing, Ministry of Lands, Housing and Human Settlements Development

1000 Meeting with Dar es Salaam Cities Alliance
Programme
Rachel Abisai Kaduma, Program Coordinator, Town
Planner
Kenneth Sinare, Non-Financial Services Manager,
Tanzania Gatsby Trust

1000 United Nations Population Fund
Anna Holmstrom, Program Officer, Gender
Christine Mwanukuzi-Kwayu, National Program
Officer
Friederike Amani Paul, Special Assistant to the
Representative

1100 Individual Meetings with Residents of House of
Peace Crisis Centre

1130 *Kenneth Sinare*, Non-Financial Services Manager,
Tanzania Gatsby Trust

1400 Meeting with Dar es Salaam Water & Sewerage
Corporation ("DAWASCO"), Ilala
Upendo Eliuze Msovu, Area Manager
Ainea Samuel Kimaro, Finance & Administration
Officer

1600 Meeting with Commission for Human Rights and
Good Governance ("CHRAGG")
Mary Massay, Acting Executive Secretary
Happy Mtei, Legal Officer
Juliana Laurent, Investigation Officer

1900 Reception at Home of CDC Fellow *Tom Pyun*

Thursday, May 27, 2010

0800 *J.M. Lusagga Kironde*, Professor, Ardhi University

- 0900 *Agnes Namuhisa*, Acting Director of Cooperation
Development, Tanzania Federation of Co-
operatives Ltd.
- 1000 *Robert Mhamba*, Professor, Institute of Development
Studies, University of Dar es Salaam
- 1230 *Tasilo Joseph (TJ) Mahuwi*, Managing Director,
Dunduliza (SACCOs Network)
- 1215 Meeting with the National Housing & Building
Research Agency ("NHBRA")
G.M. Kawiche, Chief Executive
Elias M. Kwanama, Manager of Research &
Development
Michael L.L. Mpuya, Community Development
Officer & Senior Research Sociologist
- 1415 Meeting with United States Agency for International
Development ("USAID")
Ludovicka L.S. Tarimo, Project Development
Specialist/Gender Advisor
Dr. Raz Stevenson, Health Officer
- 1600 *Stephanie J. Hutchison*, Political Officer, US Embassy
- 1700 Dinner with *Mrs. Jacqueline Lenhardt* at the US
Ambassador's Residence

Friday, May 28, 2010

- 1000 *Festa Andrew*, Program Officer, Women's Dignity
- 1000 WAT-Human Settlements Trust/WAT SACCOS
Launch of Pilot Housing Microfinance Programme
- 1100 Meeting with Senior Town Planners at the Ministry
of Housing, Lands and Human Settlements

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1100 *Ben Christiaanse*, Chief Executive Officer, National
Microfinance Bank

1930 Group Dinner
Tim Ndezi, Director, CCI
Stephen Wanjala, Housing Microfinance & Housing
Development Technical Advisor, WAT-Human
Settlements Trust

Saturday, May 29, 2010

1600 *Levina Kato*, Reporter, Tanzania Daily News

ANNEX III: November 2010 Itinerary

*Follow-Up Advocacy and Training Trip to Arusha, Dar es Salaam, and
Moshi, Tanzania*

Sunday, November 7, 2010: Dar es Salaam

Tim Ndezi, Executive Director, CCI

Monday, November 8, 2010: Arusha

Arusha Women Legal Aid and Human Rights Centre Peer
Education Training Session

Martha Lyimo, Coordinator & Paralegal, AWLAHURIC

Catherine Matasha, Law Student

Tuesday, November 8, 2010: Moshi

Juhudi Women's Group (Majengo) Peer Education
Training Session

*Samuel Meck Marick, Envirocare Coffee Cooperative
Quality Manager*

Wednesday, November 9, 2010: Dar es Salaam

House of Peace Peer Education Training Session

Edna Makala, Resident Attorney, House of Peace

Thursday, November 10, 2010: Dar es Salaam

Tour of TAWLAT Housing Pilot Project Site

Peer Education Training Session with Leaders of Kisamaja

Mikocheni, Kwembe, Kisiru, Manzeta, and Makongo

Women Housing Cooperative Societies

Grace Kisiraga, Acting Administrator, TAWLAT

Friday, November 11, 2010: Dar es Salaam

*Professor Tumsifu Jonas Nnkya, Director of Housing,
Ministry of Lands, Housing and Human Settlements
Development*

*Mary Massay, Executive Secretary, Commission for Human
Rights and Good Governance (CHRAGG)*

*Tabitha Siwale, Executive Director, WAT-Human
Settlements Trust*

Stephen Wanjala, Housing Microfinance & Housing
Development Technical Advisor, WAT-Human
Settlements Trust

Boaz Ackim, Program Manager, Habitat for Humanity