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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by Habitat International Coalition, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Inequality in global land ownership poses a central barrier to the enjoyment of enjoying a range of economic/social/cultural rights. Of all the private land in the world, nearly three quarters is estimated to be controlled by just 2.5% of all landowners. An average of 71.6% of rural households in Africa, Latin America, and Western and East Asia (excluding China) are landless or near landless. These inequalities are even more extreme when the facts are disaggregated by gender.

Increasing privatization of housing services and markets typically result in land speculation and the commodification of housing, land and water. The application of user fees for goods such as water, sanitation and electricity, and the repeal of land ceiling and rent control legislation further exacerbate the problem, resulting in increased marginalization of the poor. In all circumstances of economic obstructions on access to adequate housing and land, the genderization of poverty renders women the most disproportionate victims.

The systematic destruction of private homes, agricultural crops and land and water sources, as in Israeli-occupied Palestine, together with pillaging and looting as additional features of violations taking place in Darfur, Sudan, result in displacement and homelessness of entire families and communities. Women, generally face insurmountable struggles to gain access to land resources for housing and livelihood, a situation made even more precarious in a context of population transfer where women and children are the greatest victims.

Until security, protection and political conditions can be assured, refugees and IDPs will not be able to return to their lands and villages, neither in Palestine, Darfur, South Sudan, parts of Kurdistan and Tibet, or other affected conflict zones. Practical experience affirms that conflict resolution and transitional justice efforts must be matched with the full realization of the right to adequate housing, through compensation and reconstruction schemes with an emphasis on gender equality.

The impact of Asia's tsunami reconstruction on women's right to adequate housing and land has been devastating. In Aceh, for example, the military government's resettlement program places people in hastily built "barracks" and prevents them from returning to their villages. In Tamil Nadu, the Government is bulldozing fishing settlements to clear the beaches for tourism. Meanwhile, Sri Lanka's planning restrictions have given rise to another wave of displacement from the sea shore, especially for fisherfolks. It has been reported that tens of affected villages may be erased from the map of Thailand after opportunistic private corporations have claimed ownership to the land immediately after the tsunami. Gender-neutral relief and rehabilitation has failed to address women's specific needs and vulnerabilities in situations where women are increasingly finding themselves newly widowed postdisaster providers.

As the Secretary-General has acknowledged, the growing prevalence of HIV/AIDS in women has conspired with laws that inhibit the full enjoyment of women's rights to land ownership and inheritance, tragically endangering their livelihoods and, consequently, their lives. The Declaration of Commitment on HIV/AIDS, which the twenty-sixth General Assembly special session adopted in 2001, calls for all Governments to strengthen or enforce legislation, regulations and other measures to eliminate all forms of discrimination and to ensure the full enjoyment of all human rights and fundamental freedoms by people

living with HIV/AIDS and members of vulnerable groups, in particular, to ensure their access to inheritance and legal protections.

In cases of conflict, displacement, distributive injustice, natural disaster, epidemic, neoliberal economic policies or other counterproductive measures that impede poverty alleviation, women bear the multiple and unbalanced burdens of sustaining the home and livelihood. Their development conditions suffer from the lack of equal access to land. Where such deprivation takes place, the human rights value of land is made clear as a vital resource for the survivability of families, communities and, in extreme cases, of depriving entire peoples of their means of subsistence. Through these examples, the need to promote women's equal land rights looms large and urgent.

For many individuals and even entire communities, equitable access to land is often an axiomatic condition for realization of the human right to adequate housing. Women in all parts of the world are subject to special forms of discrimination in this particular aspect of their housing rights.

The instructive regional consultations of the Special Rapporteur on adequate housing on women's right attest to the prevalence of certain cultural norms that deprive women of their rights to land, inheritance and property. These barriers, in turn, prevent them from accessing their right to adequate housing.¹

Despite the failure of many Governments, donors and implementing agencies to recognize the how landlessness is a central cause in growing poverty and marginalization, land and the concomitant right to make productive and sustainable use of that land is a fundamental prerequisite for poverty eradication. Women's access to productive land is often a recipe for community sustainability.²

In Kenya, for example, women head 70% of all squatter households and over 25% of women slum-dwellers migrated from their rural homes because of land dispossession.³ This trend is attributed to increasing poverty, largely associated with rural landlessness, is coupled with increasing disinheritance of widows. Exclusion of women from access to land pushes them to the cities, where they typically join the growing phenomenon of women-headed households in slum areas.

The number of female-headed households is increasing in many countries, but testimonies and statistics indicate that women are less likely to be accepted for loans, credit and mortgage schemes, which limits their access to formal housing and land resources.

Even where national law provides for women's equal property rights, implementation of the law often favors men. When Uganda reformed its Constitution and land statutes to provide greater legal protection against property rights abuses, in practice many women continue to endure violations of their property rights. Notoriously, women there provide 70% of agricultural labor and produce over 80% of food, but own only 7% of land. In

¹ E/CN.4.2005/43, p.2 .

² "Women, land tenure and food security," at:

http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/x0171e/x0171e07.htm.

³ Marjolein Benschop, "Women in human settlements development—challenges and opportunities--women's rights to land and property," (UN Habitat, April 2004), paper submitted to the Commission on Sustainable Development.

Kenya, the land laws appear to be gender-neutral, but they are unequal in effect. The law is interpreted to deny women their claims, because does not recognize explicitly that women contributing to family property and income are entitled to claim a fair share of it. In norms concerning land use, the law recognizes men's traditional allocations and fails to recognize women's traditional user rights.

Tribal women and some indigenous women also face substantial disabilities in inheritance. Given the noncodification of their laws, tribal communities are governed by customs that discriminate against women, even despite matriliney. And even the limited customary land rights many tribal women enjoyed historically have been eroding.

It is an obligation of State that any codification follow gender-equal lines. General recommendation No. 21 of the Committee on the Elimination of Discrimination against Women has focused its attention on the equal right of women to access, own and inherit land. It also stresses the right of women, regardless of marital status, to share redistributed land under agrarian reform programs on equal terms with men.

As elaborated on in the Special Rapporteur's report on homelessness, the right to land is inextricably linked to the right to adequate housing. For women too, the realization of the right to adequate housing is generally contingent on their right to access, own, and manage land. We heartily welcome the report of the Special Rapporteur on adequate housing, Mr. Miloon Kothari on Women and Adequate Housing. We urge States also to welcome the Special Rapporteur's indispensable focus on women's right to adequate housing to examine the interrelated issues of land, property and inheritance

We appreciate and commend the efforts of this Commission in its adoption of ECN.4/2005/25. That resolution and the contribution of the Special Rapporteur on adequate housing, have provided a window of opportunity today for fair-minded political leaders, activists, legislators, civil organizations and intellectuals to work together. Often, governments can be more progressive than the social norms prevailing at the popular level, and the gender disparity in access to land is a human rights issue of major consequence.

In Eritrea, land tenure legislation promulgated in 1994 reflects an affirmative policy of gender equality. The right of ownership of all land in Eritrea is the exclusive right of the government. However, every Eritrean citizen whose main source of income is the land has a lifetime right of usufruct over land with the provision that such a right is neither divisible nor inheritable. Eritreans qualify automatically for land at the age 18, regardless of sex, religion or marital status, and the State issues lifetime usufruct title-deeds issued.⁴

For governments concerned with poverty eradication and social development, the institutionalization of women's equal rights to land is key. Clear, rational and normative policies are greatly needed to ensure that reasons and justice—through substantive equality—prevail for women's enjoyment of equal housing and land rights. Therefore, it would serve the progress of human development for this Commission to explicitly recognize women's equal inheritance in land as an essential instrument of human rights problem solving.

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⁴ Proclamation to Reform the System of Land Tenure in Eritrea. No. 58/1994.