

Property Rights are Human Rights

By Mary Robinson

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A discussion of human rights quickly brings to mind the atrocities taking place in Darfur, or Congolese warlords drafting children into their ranks, or migrant women and children sold into sexual slavery. Headlines on these stories remind us that millions of people live under threat of persecution and violence every day, and worldwide campaigns actively address these tragedies – today in New York, city buses carry posters advocating citizens to join the ‘Million Voices for Darfur’ campaign.

But while these crises call the world's attention to some of the most visible and dramatic examples of human injustice, the lack of basic human rights endured by millions living in absolute poverty, originates in the underlying structures of many societies, which systemically divide rich from poor, powerful from powerless. In fact, more than half the world's population lives outside recognized and enforceable laws, without effective legal means to protect their families, homes, or other possessions.

I will be speaking to this critical issue this week in Madrid at an event organized by the International Commission of Jurists and the Ministry of Foreign Affairs of Spain. Senior government officials from over 30 countries will convene to discuss human rights and foreign policy, with a special agenda on ‘property rights as human rights’. I have been invited to speak both as former United Nations Commissioner for Human Rights, and as a member of a new global initiative, the Commission on Legal Empowerment of the Poor. The Commission is co-chaired by former US Secretary of State Madeleine Albright and Peruvian economist Hernando de Soto, and made up of former presidents and cabinet ministers, some of whom are acting as champions for change in their own countries. Spain is among the group of nations that is funding the Commission's work.

In many developing countries, the majority of people lack legally recognized rights to their homes, from rural subsistence farms to shacks in urban slums. Without legal addresses or title deeds to their shacks, families live under constant threat of eviction by public officials or invasion by violent gangs, who prey on their vulnerability. Many have no legal identity, and no way to document their existence. In the world's least developed countries, more than 70% of children are not registered at birth, which can undermine their ability to access services including health and education.

Poor women often suffer the worst forms of discrimination in property law. According to UN Habitat, about one out of every four countries in the developing world has laws that impede women from owning land and taking mortgages in their own names. Laws in Africa and elsewhere prohibit women from inheriting land – in the context of Africa's AIDS crisis, this has left thousands of widows landless and homeless.

There is a strong institutional basis for demanding that governments provide all men and women broad access and secure rights to property: Article 17 of the Universal Declaration of Human Rights declares, “Everyone has the right to own property alone as

well as in association with others”. This was reinforced most recently in the 2005 United Nations World Summit Outcome Document, which cites the importance of “property contract enforcement and respect for property rights and the rule of law” as well as “guaranteeing the free and equal right of women to own and inherit property and ensuring secure tenure of property and housing by women”.

Because property rights are closely linked to other human rights, there is an opportunity for mutual reinforcement with existing efforts and initiatives. Women’s right to own land is intrinsic to rights related to marriage and family relations, as stated in Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The right to identity is a basic human right and forms the basis of protection of further fundamental rights. Article 7 of the Convention on the Rights of the Child states, “The child shall be registered immediately after birth and shall have the right from birth to a name.”

There are no panaceas in the fight on poverty, and those who work among impoverished communities understand the challenges of making property rights work for the poor. In many traditional communities, people hold and use property collectively. And ownership brings risk along with opportunity: deeds may be used to sell property for cash, leaving families homeless.

Finally, in order for legal empowerment to work, written documents like deeds and contracts must be backed by real guarantees that the rights of the poor will be respected and enforced, and not abused by corrupt local officials or lost within crony government systems. To this end, the Commission on Legal Empowerment of the Poor is working with local and international organizations that monitor and report on rights abuses. The aim is to turn the good intentions reflected in written laws into real protections and opportunities for the poor.