



# Namibian Journal of Social Justice

Volume 1, July 2021, pp. 8-21.

## Editorial

In this inaugural edition of the Namibian Journal of Social Justice we focus on the festering problem of inequitable access to urban housing in Namibia. We place housing justice in the context of social justice and the realisation of social, economic, and cultural rights. As is the case with other socio-economic issues, the way we frame the housing crisis will determine the solutions we find for it. This edition presents different perspectives and narratives on housing with the aim of stimulating academic, political and policy discourse on this deep social crisis that has its roots in Namibia's colonial past. We pose various questions in the hope of engendering debate about how we understand the housing crisis and how we can solve it. This volume combines scholarly articles, local and international case studies, opinion pieces as well as visual and creative discourses. A central question that emerges from many of the articles is whether we can afford to continue treating housing as a commodity when this commodification has clearly failed to deliver housing justice. While the focus of the volume is on housing, the volume also contains a current affairs section on gender-based violence.

The right to adequate housing is embedded in internal human rights instruments, particularly, Article 25 of the Universal Declaration of Human Rights and Article 11(1), the International Covenant on Economic, Social and Cultural Rights (ICESCR). Other international human rights instruments that assert the right to adequate housing are the 1951 Convention Relating to the Status of Refugees (article 21); the International Labour Organization's 1962 Convention No. 117 concerning Basic Aims and Standards of Social Policy (article 5 (2)); the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (article 5(e)(iii)); the 1966 International Covenant on Civil and Political Rights (article 17); the 1979 Convention on the Elimination of All Forms of Discrimination against Women (articles 14 (2) and 15(2)); the 1989 Convention on the Rights of the Child (articles 16(1) and 27(3)); the International Labour Organization's 1989 Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries (articles 14, 16 and 17); the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (article 43(1)(d)); and the 2006 Convention on the Rights of Persons with Disabilities (articles 9 and 28) (United Nations Human Rights Council, 2019).

The gains of more equitable access to housing go beyond the provision of shelter since they also have broader social-economic benefits like the reduction of poverty and gender inequality as well as the realisation of the human rights of marginalised groups. All states have the obligation to implement measures that will lead to the full realisation of adequate housing for all. These include the adoption of legislative, administrative, budgetary, and judicial measures that ensure affordable housing (UN Habitat, 2014).

The spectre of shacks that dominates large parts of Namibia's urban landscape are both visual and visceral demonstrations of our deep racial, social, and economic injustices. The struggle for housing justice is inextricably linked to the struggle for social justice. In the quest for housing justice, we are confronted with important political and ideological questions. A fundamental question is whether housing justice can be achieved in the context of broader social inequalities. This question is succinctly posed by the *Housing Justice in Unequal Cities network* as they pinpoint key dimensions of the housing crisis in various part of the world. These include racial segregation, the financialisation of housing and the criminalisation of poverty through evictions and forced removals (Institute on Inequality and Democracy, 2016).

Globally, access to adequate housing has become more elusive as housing markets are being transformed by global capital markets. This financialisation transformed housing from a social good to a commodity and a financial asset. This has made housing less available to the poor (United Nations, 2012). Failures in housing and land markets result in an increasing unmet demand for housing (Gibb, MacLennan & Stephens, 2013).

The commitment to equitable access to adequate housing is realised through housing policies, budgets, local economic planning, urban services, and urban planning (UN Habitat, 2020), but these are often overshadowed by powerful interests and an ideological commitment to market-driven neoliberal paradigms. The former UN Special Rapporteur on Housing has expressed concern that as private developers and investors dominate housing systems there is the separation of housing from its social function for it is treated as a commodity for speculation (United Nations Human Rights Council, 2019). In Namibia the provision of adequate housing has been left to market economics. This has resulted in massive housing shortages (Chiripanhura, 2018). The National Planning Commission identified challenges to adequate housing provision. These are high prices caused by demand and supply imbalances, the exclusion of 73% of Namibians from housing credit, inadequate housing budgetary provision by the State, poor access to adequate land and inadequate policy and legislative frameworks (Republic of Namibia, 2018). Market failure has resulted in a proliferation of informal settlements.

The question of how housing justice can be achieved in Namibia still remains unanswered. So far, the commodification of housing has primarily served elite interests. Because we cannot isolate housing from broader social justice questions of rights, access, equity and participation, we have to ask if the hegemonic political and ideological stance, that privileges market forces in housing provision, renders housing justice unachievable and if it is not time to raise counter-hegemonic narratives that seek to de-commodify social goods like housing, education and health care.

## **Housing and Human Rights**

International human rights law recognises access to adequate housing as a human right. It is part of the right to an adequate standard of living contained in the Universal Declaration of Human Rights (1948) and in the International Covenant on Economic, Social and Cultural Rights (1966). This right ensures certain protections, for example, from discrimination and forced evictions. It also guarantees freedom of choice, freedom of movement and security of tenure. The term adequate housing implies adherence to certain minimum standards for example the availability of services, facilities, and infrastructure. These include access to safe drinking water, sanitation and refuse removal services. Adequate housing also means affordability, habitability, accessibility and cultural acceptability. The right to adequate housing also affects other rights as human rights are interdependent, indivisible and interrelated. The denial of access to adequate housing impacts the realisation of, for example,

the right to work and the right to privacy. Forced removals may impact the right to earn a living and unsafe housing may impact the right to health and security. In the assertion of these rights, people are often subjected to violence, arbitrary arrest, or arbitrary and prolonged detention as well as other violations of their human rights and civil liberties (UN Habitat, 2020).

According to the former UN Special Rapporteur on Housing, Ms Leilani Farha (2014-20), States are not always aware that human rights apply to housing and how their obligations can be translated into concrete actions that address the housing crisis. Farha further urges States to affirm the right to housing through domestic legal instruments that afford that right the same protections as provided for under international law (United Nations Human Rights Council, 2019).

Namibia does have the domestic legal instruments to guarantee the right to adequate housing. In his article, *The right to adequate housing in Namibia: A right not vindicated*, John Nakuta argues that this right is one of the most blatantly violated rights in Namibia. Although the Namibian constitution does not explicitly guarantee the right to adequate housing, it does embrace an international law-friendly disposition. Nakuta clarifies what adequate housing means. His core argument is that because Namibia has ratified several international instruments and because the constitution provides for the automatic incorporation of international agreements, that are binding on Namibia, into Namibia's legal system, citizens have a legal basis from which they can claim their rights. This can be seen as a fall-back device and a legal mechanism that allow citizens to claim housing rights. The lack of domestic legal instruments to protect the right to adequate housing should not be used to deny access to justice for the disenfranchised. The UN Rapporteur argues that access to justice should be understood broadly and should not only rely on the courts but also on administrative procedures and accessible community-based, informal mechanisms (United Nations Human Rights Council, 2019).

### **Spatial Segregation, Racial Justice, and Exclusion**

The colonial city emerged in the context of capitalist modernity and served to facilitate the export of wealth, mainly natural resources, from the subjugated people to the colonial core. These cities often housed agencies of political control like the bureaucracy, the military, the police as well as the economic structure like banks and trading entities. The colonial powers implanted these urban centres on pre-capitalist societies, and in so doing, made them more unequal. The subjugated people became unequal participants in global capitalism (Fox, 2017). Despite political independence, Namibia's decolonial project remains incomplete. It has retained the colonial structure of its economy. Cities and town are still characterised by inequality and spatial segregation. There is a need to retrace the history of Namibia's urbanisation and urban housing development to locate our present and to fully appreciate the need for a decolonial turn to break with our spatially segregated and racialised past. Both Guillermo Delgado and Ellison Tjirera delve into this past.

In his article *(Re)tracing the History of Spatial Segregation, Urbanization and Housing in Windhoek*, Ellison Tjirera focuses on the urban social-spatial history of Windhoek. The underlying theme of his article is the spatial segregation that has characterised the city's development. With the German colonial project, Windhoek, became a military, administrative and commercial centre. This occurred when the colonial government moved its headquarters from Otjimbingwe. A series of maps illustrates the city's evolution and the colonial regime's attempts to control the black population of Windhoek. Tjirera argues that Windhoek's colonial history of balkanisation and residential segregation provides a prism to view the persistent spatial segregation and inequalities that foreground housing. Segregation became the official state policy under South African apartheid colonial rule. The racial segregation prescripts of

the Odendaal Plan were brutally enforced through forced removal, evictions and the massacre of people who opposed forced removals in 1959. The apartheid urban geography still looms large over the city as inequalities and exclusion dominate the lived experiences of many city dwellers.

Delgado, in his article *The horizon for a fuller urban life in Namibia is visible: Expanding the notion of the urban housing crisis and changing urban politics*, uses a historical materialist or political economy approach combined with decoloniality and feminist approaches to critique Namibia's urban housing crisis. He contends that the history of housing in Namibia started long before colonial times. Human settlement patterns reflected the availability of natural resources. With colonial occupation the notion of private property was forcefully introduced. The industrialisation project of capitalist modernity gave rise to the migrant labour system and formed the foundation of separate housing and urban development with neighbourhoods and liveable spaces for whites who were understood as permanent settlers. Black workers lived in single-sex labour compounds as their stay in urban areas was regarded as merely temporary. Black urban mobility was further controlled through a series of town planning and property regulations. Informal settlements proliferated as some of the pass laws and influx control regulations were gradually repealed. After independence our democratic dispensation guaranteed freedom of movement and the rate of urbanisation outpaced, by far, the ability to procure serviced urban land and housing. The crisis was compounded by high levels of unemployment and precarious livelihoods that placed access to adequate housing outside the reach of many. The problem of land scarcity was artificially manufactured through low density urban planning by local government and the financialisation of housing. Delgado recommends a more democratic system of housing governance that is less centralised, bottom-up and draw communities into its co-production.

The right to adequate housing cannot be fully realised without the security of tenure and access to services. Housing is also not adequate if people are cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities (UN Habitat, 214). In his article *Claiming land, housing and services, imagining a just society: Precarity and urban citizenship in Windhoek*, Lalli Metsola makes the everyday struggles to access land, housing and services visible. He documents the views of citizens on the precarious urban fringes of Windhoek. He argues that the formal structures of the city's planning and administration are organised according to a logic that make services inaccessible and unaffordable to a large part of the city's inhabitants. Municipal regulations constrain access to services as the city only delivers infrastructure and services like roads, sanitation, waste collection, electricity, water, and transport to residents once land tenure has been formalised and formal plots demarcated. This, by definition, excludes many people in informal settlements. Metsola contrasts the competing cultures around land access and land ownership. The logic of ownership against payment goes against the logic of communal land allocation new migrants to the city are used to. The neoliberal dictum of user fee charges, therefore, goes against residents' ideas of fairness, compassion, and shared humanity. He concludes that neoliberalism's market logic of commodification of land and profit-making trumps the moral imperative of access to affordable housing and services.

## **Women and Housing**

The daily struggles of women to access adequate housing in different towns in Namibia is demonstrated empirically by a few short case studies from Windhoek, Groot Aub and Otjiwarongo. Imelda /Hoebes, Jermine April and Mandy Mapenzie each provide a window into the lives of individual women in different informal settlements. The overarching narrative present in these case studies is that housing is linked to the macro-economic conditions

prevailing in the county. Some of the constant and recurring themes in these case studies are unemployment, poverty, and precarious livelihoods. These case studies further affirm the linkages between housing and the broader context of structural inequality and structural violence. It shows how the economic system of production, distribution, and consumption, marginalises many poor, black women. They further reveal shocking levels of bureaucratic ineptitude, unaccountability and unresponsiveness. Women who have applied for land simply do not get responses to their applications. This signals the disdain local government officials have towards the communities they serve. We know that a capable state is key to the successful implementation of its developmental agenda. What these accounts show, is an urgent need for skills audits and functioning systems of accountability that ensure access for all.

Although Namibia has formal equality guaranteed in the constitution and other legal instruments, women still face discrimination in housing access. This is linked to historical and structurally based social, cultural, and economic power imbalances between men and women. In addition, legal provisions in both customary and statutory law still discriminate against women. There are, for example, customary inheritance practices that dispossess women and children from land and houses. The Native Administration Proclamation of 1928 also discriminates against women regarding marital property in cases of divorce or the death of a husband. The former UN Special Rapporteur on Housing argues that housing policies often fail to take into account women's special circumstances and vulnerabilities. In addition, women are faced with discriminatory customary laws and practices, judicial and administrative bias, lack of access to remedies, information or decision-making processes. They also often lack awareness of their rights. These all compound their exclusion (United Nations Human Rights Council, 2019).

Ndeshi Namupala, Emma Nangolo and Lucy Edwards-Jauch provide some insight into the gender inequalities in housing access. They point out that Namibia's housing policy and the lack of gender disaggregated data on housing affirm the gender-blindness towards housing in the country. The authors recognise the multiple forms of discrimination women face in their quest to secure housing. The article questions the incremental approaches towards housing and argues that under conditions of precarity the sole provision of land is not sufficient to ensure adequate housing. The provision of land as envisaged under the Flexible Land Tenure Act offers security of tenure to many Namibians but the location of this land is often far from economic opportunities and services and only serve to amplify their marginality. This also reproduces the historical legacy of spatial segregation. The provision of land per se does not equate to adequate housing, particularly under conditions of mass unemployment and precarious incomes, as people simply do not have the incomes to upgrade their houses incrementally to meet the prescripts of adequate housing. The article calls for an Intersectional Feminist approach towards housing that takes into account how gender intersects with social class, race, ethnicity, age and other markers of difference so that housing policies and housing provision can address the circumstances of different groups of women.

## **Opinion Pieces**

In this section we present diverse opinion pieces on housing to stimulate further debate. These opinion pieces may not necessarily reflect the views of the editorial collective but they show a deep commitment to equity and justice. In their opinion piece *Is Social Housing Possible?* Shaun Whittaker, Harry Boesak and Mitchell Van Wyk pose the very pertinent question of whether the current neoliberal model can deliver equitable access to housing. They argue that housing provision is driven by greed and that the profit motive often supersedes the social right to adequate housing. They link the question of unequal access to housing to the

high levels of inequality in the country. A core argument is that skewed priorities have seen the construction of edifices that venerate a few leaders rather than meeting the housing needs of the many. They draw attention to a core contradiction in the system, namely, that although there are scores of people who are either homeless or live under conditions of squalor, a large portion of Namibia's housing stock remain unoccupied because the market mechanism is inefficient. It does not necessarily deliver housing to those who need it, but rather to those who can afford it. They call for a redistributive housing model that will take into account the many unoccupied houses that can be redistributed for occupation. They further call on the Namibian government to institute a National Housing Bank that can avail housing credit to low-income groups. In addition, they recommend the creation of an Applied Economic Research Institute to look into questions of access to drinking water, sanitation, overcrowding, durable housing structures, security of tenure and energy efficiency.

Toivo Ndjobela in his opinion piece, *The Namibian housing conundrum: Ambiguities and contradictions*, reflects on the relationship between housing and secure access to land. He argues that the Flexible Land Tenure Act 4 of 2012 is a game-changer that could satisfy two important conditions to access housing, namely, legality and physical consolidation. This marks a departure from the past where physical infrastructure developments in informal settlements were not sustainable because of forced evictions as informal settlement was criminalised. Security of tenure can also facilitate access to finance for improved housing infrastructure. Ndjobela also briefly reflects on how the city of Lima, Peru managed to formalise informal settlements.

### **Confronting the Nature of our Housing Crisis and Engaging with Alternative Models**

As Namibia embraces housing models that privilege market forces, the housing crisis in the country becomes more severe. This is not only a Namibian problem, but also a global problem that is linked to a global system of production, distribution, and consumption. Globally 1.8 billion people are either homeless or live under abhorrent housing conditions. Human rights experts have warned that the failure to address the global housing crisis has resulted in mass human right violations (United Nations Human Rights Council, 2020). As housing provision is more and more left to private developers the former Special Rapporteur on adequate housing has warned against the commodification and financialisation of housing that separates it from its social function. She further warned that the mere tinkering at the edges of dominant, unsustainable market-driven housing models will not work and therefore calls for a fundamental change in how housing is conceived, valued, produced and regulated (United Nations Human Rights Council, 2019).

In our attempts to find solutions to our housing crisis, there is a need to imagine alternative models for adequate housing that depart from the dominant but unsustainable neoliberal, market-driven ones. Guillermo Delgado, in his article *The horizon for a fuller urban life in Namibia is visible: Expanding the notion of the urban housing crisis and changing urban politics*, offers broader explanatory frameworks that engage with the systemic nature of the problem. The search for solutions forces us to engage with conceptual frameworks that privilege the poor as the elites see housing primarily as an avenue for speculative investments and profit-making. A neoliberal turn in Namibia's housing policy has led to the financialisation of land and housing markets. The dominant discourse has changed from housing as shelter to housing as a conduit for private investment and profiteering. Delgado presents three alternative theoretical frameworks through which housing can be analysed, namely, historical materialism, decoloniality and feminism. His core argument is that we need a more holistic explanatory framework for understanding the root causes of the problem. He offers some counter narratives to the dominant neoliberal approach to help explain the housing crisis.

Concrete alternatives to the neoliberal model are offered through case studies from Botswana, Uruguay, and Venezuela. Albius Mwiya's case study of Kasane, Botswana shows that adequate housing needs an integrated plan that combines land access, services, and finance. Although there are bureaucratic hurdles to implementation, production and construction were localised so that the direct beneficiaries could also derive income from the project. This increased income and reduced poverty for local people instead of only benefiting big property developers. Similarly, Herbert Jauch's case studies of Venezuela and Uruguay show that housing programmes can serve the interests of social justice, equality, and inclusion. In Venezuela under Hugo Chavez, socio-economic programmes or missions were introduced. A set of principles that included self-organisation and localisation guided the implementation of mass housing programmes. The housing mission targeted poor and marginalised groups like youth, indigenous people, peasants, and workers. Uruguay's housing programme acknowledged the rights of marginalised groups to have housing in the city. The general trend in many countries is to banish low-income groups to inferior housing on the outskirts of the city. In Uruguay self-managed, membership-based cooperatives drove the social production of habitat. A public land bank provided access to finance for land acquisition. The Uruguayan Federation of Mutual-Aid Housing Cooperatives supported the participatory self-management of housing production. In all three examples show that localised, participatory processes enabled adequate housing access for low-income and marginalised groups.

### **Architectural Design**

Architectural design can play an important role in helping to build an inclusive society that reflects our democratic values. Namibia needs socially engaged architecture that advances social justice, self-expression, self-actualisation and self-direction (Rosenthal, 2013). Part of the re-conceptualisation of housing delivery is its spatial and architectural design. Apartheid housing design was understood as the State's desire to provide low-cost, racially separated ghettos for a cheap labour force that had to be divided and easily controlled. No consideration was given to the needs and desires of the people who were to occupy these matchbox houses or how their social, economic and cultural needs can find expression in these spaces. Part of Namibia's decolonial turn is to reconfigure living spaces in ways that take into account the social, economic, cultural and spiritual needs of communities. Social architecture is about the design of social spaces that support well-being, that are inclusive and accept diversity (Rosenthal, 2013). Housing design should give affordable access to safe spaces that meet the social, cultural, and economic needs of people. Architects Temba Jauch and Zachary Kimberling present their affordable housing architectural design that incorporates social considerations like livelihoods and safety.

### **Current Affairs - Gender-Based Violence**

Gender justice is part and parcel of the struggle for social justice and in this edition, our current affairs section centres on the struggle against gender-based violence. Heike Becker places the #ShutItAllDownNamibia movement in the historical and political context of Namibia's struggle for equality and justice. She reflects on Namibia's long history of grassroots struggles against injustice and oppression. The article draws comparisons between the current, new, and emerging social movements against gender-based violence and past internal Namibian social movements against poor living conditions, racial oppression and resistance to the brutal violence of the South African army. She also reflects on the Namibian Women's Movement of the 1980s. Becker's reflections on past struggles belie the silences in Namibian historiography. There remains a big gap in the official historical narrative that ignores or marginalises the contribution of internal social movements towards Namibia's independence.

The article calls on Namibian society to take the voices of young people seriously as they continue to shape Namibia's postcolonial project.

Nashilongweshipwe Mushaandja lays bare the unfinished work of Namibia's liberation politics. His photo essay on the 21<sup>st</sup> century struggles of Namibian youth is a stark reminder that the decolonial project is far from complete. Mushaandja uses performative writing to construct a narrative of new political praxis in which the body becomes a tool of protest against the normalisation of violence in post-independent Namibian society. The lack of urgency to disrupt this violence on the part of the political leadership of the country suggests little appreciation for the trauma that continues to be perpetrated on Namibian bodies. Mushaandja reproduces some of the profanities used by the protest movement to expose the conservative and hypocritical moralities that are dismayed by such profanities but not by the brutal violence and trauma that has evoked them. The continuities in Mashaandja's performative narrative are the uninterrupted structures of patriarchy and colonial oppression that remain with us. Another is the continued police brutality that seeks to suppress and criminalise the legitimate political expression of the #ShutItAllDownNamibia movement.

Land redistribution has been a struggle since indigenous Namibians were dispossessed of land and wealth through colonialism. The question of land reform is part of the incomplete liberation project. Many communities which were dispossessed by colonial conquest still seek justice, restitution and reparations. Lastly, but very importantly we have a brief outline of the chapters of the Report of the Commission of Inquiry into Claims of Ancestral Land Rights which was released into the public domain on April 21, 2021. Helen Vale provides a brief summary of this report in her short article on *The nexus between land and housing*, Vale reminds us of the important link between land reform and housing. In chapter 7 of the report the Commission recommends that urgent interventions be taken to assure urban land rights for the displaced and landless. Many of the landless urban dwellers were dispossessed, displaced, or evicted by commercial farmers. It is therefore a matter of restorative justice that Namibia brings this aspect of the liberation project to a conclusion through a comprehensive land reform programme.

### **Concluding Remarks**

The articles in the journal offer different views on the housing crisis. We hope that it will evoke robust debate on alternative approaches to housing. While we recognise that there is no one correct answer to how the crisis can be solved, the empirical evidence presented confirms that the models we have followed so far have failed us. In the interest of social justice, we need to show the courage to change to deliver housing justice for all and not just a few. There are examples of how marginalised communities have used their agency to ensure adequate housing, but this requires State support and an integrated approach. We need to keep the conversation alive to arrive at more optimal solutions. This journal's contribution to our understanding of housing merely scratches the surface. A lot more research is needed to have a comprehensive understanding. Topics like ecologically and socially sustainable housing, economic modelling, energy efficiency and equitable access to water and sanitation are not included. We hope that future publications will plug these gaps. We encourage communities, activists, and academics to continue to explore the voids and the alternatives.

**Lucy Edwards-Jauch, Editor**

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