



UN HABITAT

The Right to Adequate Housing



UNITED NATIONS

Human Rights

Fact Sheet No.

21
(Rev. 1)



Office of the United Nations
High Commissioner
for Human Rights

UN  HABITAT

The Right to Adequate Housing

Fact Sheet No. **21**/Rev.1

NOTE

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

*
* * *

Material contained in this publication may be freely quoted or reprinted, provided credit is given and a copy of the publication containing the reprinted material is sent to the Office of the United Nations High Commissioner for Human Rights, Palais des Nations, 8–14 avenue de la Paix, CH–1211 Geneva 10, Switzerland.

CONTENTS

	<i>Page</i>
Abbreviations	iv
Introduction	1
I. WHAT IS THE RIGHT TO ADEQUATE HOUSING?	3
A. Key aspects of the right to adequate housing	3
B. Common misconceptions about the right to adequate housing	6
C. The link between the right to adequate housing and other human rights	9
D. How does the principle of non-discrimination apply ?	10
E. The right to adequate housing in international human rights law	10
II. HOW DOES THE RIGHT TO ADEQUATE HOUSING APPLY TO SPECIFIC GROUPS?	16
A. Women	16
B. Children	18
C. Slum-dwellers	20
D. Homeless persons	21
E. Persons with disabilities.....	23
F. Displaced persons and migrants.....	24
G. Indigenous peoples	27
III. WHAR ARE THE OBLIGATIONS ON STATES AND THE RESPONSIBILITIES OF OTHERS?.....	29
A. General obligations.....	30
B. Three types of obligations	33
C. The responsibilities of others	34

IV. MONITORING THE RIGHT TO ADEQUATE HOUSING AND HOLDING STATES ACCOUNTABLE	37
A. National accountability and monitoring	37
B. Regional accountability	42
C. International monitoring	43
<i>Annex: Selected international instruments and other documents related to the right to adequate housing.....</i>	47

ABBREVIATIONS

IDPs	internally displaced persons
ILO	International Labour Organization
NGOs	non-governmental organizations
NHRI	national human rights institution
OHCHR	Office of the United Nations High Commissioner for Human Rights
UN-Habitat	United Nations Human Settlement Programme
UNHRP	United Nations Housing Rights Programme
UNICEF	United Nations Children’s Fund

Introduction

International human rights law recognizes everyone's right to an adequate standard of living, including adequate housing. Despite the central place of this right within the global legal system, well over a billion people are not adequately housed. Millions around the world live in life- or health-threatening conditions, in overcrowded slums and informal settlements, or in other conditions which do not uphold their human rights and their dignity. Further millions are forcibly evicted, or threatened with forced eviction, from their homes every year.

Adequate housing was recognized as part of the right to an adequate standard of living in the 1948 Universal Declaration of Human Rights and in the 1966 International Covenant on Economic, Social and Cultural Rights. Other international human rights treaties have since recognized or referred to the right to adequate housing or some elements of it, such as the protection of one's home and privacy.

The right to adequate housing is relevant to all States, as they have all ratified at least one international treaty referring to adequate housing and committed themselves to protecting the right to adequate housing through international declarations, plans of action or conference outcome documents. Several constitutions protect the right to adequate housing or outline the State's general responsibility to ensure adequate housing and living conditions for all. Courts from various legal systems have also adjudicated cases related to its enjoyment, covering, for instance, forced evictions, tenant protection, discrimination in the housing sphere or access to basic housing-related services.

Increased international attention has also been paid to the right to adequate housing, including by human rights treaty bodies, regional human rights mechanisms and the Commission on Human Rights (now replaced by the Human Rights Council), which created the mandate of "Special Rapporteur on adequate housing as a component of the right to an adequate standard of living" in 2000. These initiatives have helped to clarify the scope and content of the right to adequate housing.

This Fact Sheet starts by explaining what the right to adequate housing is, illustrates what it means for specific individuals and groups, and then elaborates upon States' related obligations. It concludes with an overview of national, regional and international accountability and monitoring mechanisms.

This joint OHCHR/UN-Habitat Fact Sheet is the second in a series of joint publications by the Office of the United Nations High Commissioner for Human Rights with other United Nations partners to focus on economic, social and cultural rights. The first was the *Fact Sheet on the Right to Health*, issued jointly with the World Health Organization, and a joint fact sheet with the Food and Agriculture Organization of the United Nations on the right to food is forthcoming.

I. WHAT IS THE RIGHT TO ADEQUATE HOUSING?

A. Key aspects of the right to adequate housing

The United Nations Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity. The characteristics of the right to adequate housing are clarified mainly in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.¹

- **The right to adequate housing contains freedoms.** These *freedoms* include:
 - Protection against forced evictions and the arbitrary destruction and demolition of one's home;
 - The right to be free from arbitrary interference with one's home, privacy and family; and
 - The right to choose one's residence, to determine where to live and to freedom of movement.

- **The right to adequate housing contains entitlements.** These *entitlements* include:
 - Security of tenure;
 - Housing, land and property restitution;
 - Equal and non-discriminatory access to adequate housing;
 - Participation in housing-related decision-making at the national and community levels.

- **Adequate housing must provide more than four walls and a roof.** A number of conditions must be met before particular forms of shelter can be considered to constitute "adequate housing." These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, *at a minimum*, meet the following criteria:

¹ General comments are adopted by the treaty bodies based on their monitoring experience. They offer expert guidance to States on their obligations arising under a particular treaty.

- *Security of tenure*: housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
 - *Availability of services, materials, facilities and infrastructure*: housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.
 - *Affordability*: housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights.
 - *Habitability*: housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
 - *Accessibility*: housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
 - *Location*: housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.
 - *Cultural adequacy*: housing is not adequate if it does not respect and take into account the expression of cultural identity.
- **Protection against forced evictions.** Protection against forced evictions is a key element of the right to adequate housing and is closely linked to security of tenure.

Forced evictions are defined as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”² According to the United Nations Human Settlements Programme (UN-Habitat), at least 2 million people in the world are forcibly evicted every year, while millions are threatened with forced evictions.³

² General comment 7, which goes on to note that “the prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights” (para. 4).

³ UN-Habitat, *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security* (Nairobi, 2007).

Forced evictions are carried out in a variety of circumstances and for a variety of reasons, for instance, to make way for development and infrastructure projects, urban redevelopment or city beautification, or prestigious international events, as a result of conflicts over land rights, armed conflicts or societal patterns of discrimination. Forced evictions tend to be violent and disproportionately affect the poor, who often suffer further human rights violations as a result. In many instances, forced evictions compound the problem they were ostensibly aimed at solving.

Regardless of their cause, forced evictions may be considered a gross violation of human rights and a prima facie violation of the right to adequate housing. Large-scale evictions can in general be justified only in the most exceptional circumstances and only if they take place in accordance with the relevant principles of international law.

Safeguards in the case of evictions

If eviction may be justifiable, because the tenant persistently fails to pay rent or damages the property without reasonable cause, the State must ensure that it is carried out in a lawful, reasonable and proportional manner, and in accordance with international law. Effective legal recourses and remedies should be available to those who are evicted, including adequate compensation for any real or personal property affected by the eviction. Evictions should not result in individuals becoming homeless or vulnerable to further human rights violations.

In general, international human rights law requires Governments to explore all feasible alternatives before carrying out any eviction, so as to avoid, or at least minimize, the need to use force. When evictions are carried out as a last resort, those affected must be afforded effective procedural guarantees, which may have a deterrent effect on planned evictions. These include:

- An opportunity for genuine consultation;
- Adequate and reasonable notice;
- Availability of information on the proposed eviction in reasonable time;
- Presence of Government officials or their representatives during an eviction;

-
- Proper identification of persons carrying out the eviction;
 - Prohibition on carrying out evictions in bad weather or at night;
 - Availability of legal remedies;
 - Availability of legal aid to those in need to be able to seek judicial redress.

B. Common misconceptions about the right to adequate housing

- **The right to adequate housing does NOT require the State to build housing for the entire population.** One of the most common misconceptions associated with the right to adequate housing is that it requires the State to build housing for the entire population, and that people without housing can automatically demand a house from the Government. While most Governments are involved to some degree in housing construction, the right to adequate housing clearly does not oblige the Government to construct a nation's entire housing stock.

Rather, the right to adequate housing covers measures that are needed to prevent homelessness, prohibit forced evictions, address discrimination, focus on the most vulnerable and marginalized groups, ensure security of tenure to all, and guarantee that everyone's housing is adequate. These measures can require intervention from the Government at various levels: legislative, administrative, policy or spending priorities. It can be implemented through an enabling approach to shelter where the Government, rather than playing the role of housing provider, becomes the facilitator of the actions of all participants in the production and improvement of shelter. Policies, strategies and programmes based on the enabling approach have been promoted by the United Nations since 1988 within the framework of the Global Strategy for Shelter to the Year 2000.

In specific cases, however, the State may have to provide direct assistance, including housing or housing allowances, notably to people affected by disasters (natural or man-made) and to the most vulnerable groups in society. On the other hand, several measures necessary to guarantee the right to adequate housing require the Government only to refrain from certain practices or actions.

- **The right to adequate housing is NOT only a programmatic goal to be attained in the long term.** Another misunderstanding is that the right to adequate housing does not impose immediate obligations on the State. On the contrary, States must make every possible effort, within their available resources, to realize the right to adequate housing and to take steps in that direction without delay. Notwithstanding resource constraints, some obligations have immediate effect, such as the undertaking to guarantee the right to adequate housing in an equal and non-discriminatory manner, to develop specific legislation and plans of action, to prevent forced evictions or to guarantee a certain degree of security of tenure to all.
- **The right to adequate housing does NOT prohibit development projects which could displace people.** It is sometimes believed that the protection against forced evictions prohibits development or modernization projects that entail displacement. There are inevitable needs for the redevelopment of certain areas in growing cities and for public agencies to acquire land for public use and infrastructure. The right to adequate housing does not prevent such development from taking place, but imposes conditions and procedural limits on it. It is the way in which such projects are conceived, developed and implemented that is important. Very often, they are carried out with little or no consultation with those affected, limited consideration of their needs and little attempt to develop solutions which minimize the scale of the eviction and the disruption caused.
- **The right to adequate housing is NOT the same as the right to property.** It is sometimes believed that the right to adequate housing equates to a right to property or property rights. Some also argue that the right to adequate housing threatens the right to property. The right to own property is enshrined in the Universal Declaration of Human Rights and other human rights treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (d)(v)) and the Convention on the Elimination of All Forms of Discrimination against Women (art. 16 (h)), although absent from the two Covenants.⁴

The right to adequate housing is broader than the right to own property as it addresses rights not related to ownership and is

⁴ The right to property is also enshrined in the American Convention on Human Rights (art. 21), the African Charter on Human and Peoples' Rights (art. 14), and the Charter of Fundamental Rights of the European Union (art. 17).

intended to ensure that *everyone* has a safe and secure place to live in peace and dignity, including non-owners of property. Security of tenure, the cornerstone of the right to adequate housing, can take a variety of forms, including rental accommodation, cooperative housing, lease, owner-occupation, emergency housing or informal settlements. As such, it is not limited to the conferral of formal legal titles.⁵ Given the broader protection afforded by the right to adequate housing, a sole focus on property rights might in fact lead to violations of the right to adequate housing, for instance, by forcibly evicting slum-dwellers residing on private property. On the other hand, protection of the right to property might be crucial to ensure that certain groups are able to enjoy their right to adequate housing. The recognition of spouses' equal rights to household property, for instance, is often an important factor in ensuring that women have equal and non-discriminatory access to adequate housing.

- **The right to adequate housing is NOT the same as the right to land.** It is sometimes argued that the right to adequate housing equates to a right to land. Access to land can constitute a fundamental element of the realization of the right to adequate housing, notably in rural areas or for indigenous peoples. Inadequate housing or the practice of forced evictions can be the consequence of being denied access to land and common property resources. As such, the enjoyment of the right to adequate housing might require, in certain cases, securing access to and control over land. Nevertheless, international human rights law does not, currently, recognize a self-standing right to land.⁶
- **The right to adequate housing includes ensuring access to adequate services.** The right to adequate housing does not just mean that the structure of the house itself must be adequate. There must also be sustainable and non-discriminatory access to facilities essential for health, security, comfort and nutrition. For example, there must be access to safe drinking water, energy for cooking, heating, lighting, sanitation and washing facilities, means

⁵ The work of the Global Land Tool Network (GLTN), facilitated by UN-Habitat, aims to take a more holistic approach to land issues by improving global coordination, including through the establishment of a continuum of land rights, rather than just focus on individual land titling. See www.gltn.net.

⁶ "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari" (A/HRC/4/18, paras. 26 and 31). The Special Rapporteur recognized and emphasized the importance of land as a "critical element" of the right to adequate housing, and called on the Human Rights Council to ensure "the recognition in international human rights law of land as a human right."

of storing food, refuse disposal, site drainage and emergency services.

C. The link between the right to adequate housing and other human rights

Human rights are interdependent, indivisible and interrelated. In other words, the violation of the right to adequate housing may affect the enjoyment of a wide range of other human rights and vice versa.

Access to adequate housing can be a precondition for the enjoyment of several human rights, including the rights to work, health, social security, vote, privacy or education. The possibility of earning a living can be seriously impaired when a person has been relocated following a forced eviction to a place removed from employment opportunities. Without proof of residency, homeless persons may not be able to vote, enjoy social services or receive health care. Schools may refuse to register slum children because their settlements have no official status. Inadequate housing can have repercussions on the right to health; for instance, if houses and settlements have limited or no safe drinking water and sanitation, their residents may fall seriously ill.

Forced evictions can have implications for the enjoyment of several human rights, including the right to education and the right to personal security. Forced evictions often result in children's schooling being interrupted or completely stopped. The trauma experienced following a forced eviction can also impair a child's capacity to attend classes. During forced evictions, people are frequently harassed or beaten and occasionally even subjected to inhumane treatment or killed. Women and girls are particularly vulnerable to violence, including sexual violence, before, during and after an eviction.

At the same time, the right to adequate housing can be affected by the extent to which other human rights are guaranteed. Access to housing is most at risk for those denied the right to education, work or social security. Improving housing conditions and protecting against forced evictions are often dependent on claims made by those affected. Where the rights to freedom of expression, assembly or association are not respected, the possibility for individuals and communities to advocate better living conditions is significantly reduced. Human rights defenders working to protect the right of individuals and communities to adequate housing have been subjected to violence, arbitrary arrest, and arbitrary and prolonged detention.

D. How does the principle of non-discrimination apply?

Discrimination means any distinction, exclusion or restriction made on the basis of the specific characteristics of an individual such as race, religion, age or sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms. It is linked to the marginalization of specific population groups and is generally at the root of structural inequalities within societies.

In housing, discrimination can take the form of discriminatory laws, policies or measures; zoning regulations; exclusionary policy development; exclusion from housing benefits; denial of security of tenure; lack of access to credit; limited participation in decision-making; or lack of protection against discriminatory practices carried out by private actors.

Non-discrimination and equality are fundamental human rights principles and critical components of the right to adequate housing. The International Covenant on Economic, Social and Cultural Rights, in its article 2 (2), identifies the following non-exhaustive grounds of discrimination: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. According to the Committee on Economic, Social and Cultural Rights, “other status” may include disability, health status (e.g., HIV/AIDS) or sexual orientation. The Special Rapporteur on adequate housing has also emphasized that discrimination and segregation in housing can result from poverty and economic marginalization.

The impact of discrimination is compounded when an individual suffers double or multiple discrimination—for instance, on the basis of sex *and* race, national origin or disability. The Committee has stressed the importance of addressing this type of discrimination in its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

States have an obligation to prohibit and eliminate discrimination on all grounds and ensure de jure and de facto equality in access to adequate housing and protection against forced eviction.

E. The right to adequate housing in international human rights law

The right to adequate housing is a human right recognized in international human rights law as part of the right to an adequate standard of living.

One of the first references to it is in article 25 (1) of the Universal Declaration of Human Rights. The International Covenant on Economic, Social and Cultural Rights, widely considered as the central instrument for the protection of the right to adequate housing, refers to *the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions* (art. 11).

As mentioned above, the Committee has adopted general comments on the right to adequate housing and housing-related issues which provide authoritative guidance on the Covenant's provisions, in particular its general comments Nos. 4, 7 and 16.

Other international human rights treaties have addressed the right to adequate housing in different ways. Some are of general application while others cover the human rights of specific groups, such as women, children, indigenous peoples, migrant workers and members of their families, or persons with disabilities.

Other international human rights treaties that recognize the right to adequate housing

- The 1951 Convention Relating to the Status of Refugees (art. 21)
- The International Labour Organization's 1962 Convention No. 117 concerning Basic Aims and Standards of Social Policy (art. 5 (2))
- The 1965 International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (e)(iii))
- The 1966 International Covenant on Civil and Political Rights (art. 17)
- The 1979 Convention on the Elimination of All Forms of Discrimination against Women (arts. 14 (2) and 15 (2))
- The 1989 Convention on the Rights of the Child (arts. 16 (1) and 27 (3))
- The International Labour Organization's 1989 Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (arts. 14, 16 and 17)
- The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 43 (1)(d))
- The 2006 Convention on the Rights of Persons with Disabilities (arts. 9 and 28)

At the regional level, the right to adequate housing is recognized in the European Convention on the Legal Status of Migrant Workers (1977), the African Charter on the Rights and Welfare of the Child (1990) and the revised European Social Charter (1996). While the European Convention for the Promotion of Human Rights and Fundamental Freedoms (1950), the European Social Charter (1961), the American Convention on Human Rights (1969) and the African Charter on Human and Peoples' Rights (1981) do not explicitly refer to the right to adequate housing, in the jurisprudence its protection has been derived from the enjoyment of other human rights, such as the right to privacy, the right to property and peaceful enjoyment of possessions, and the right to protection of the family.

The right to adequate housing under the African Charter on Human and Peoples' Rights

In the Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria (communication No. 155/96), the African Commission on Human and Peoples' Rights found that, while the right to adequate housing was not explicitly recognized in the Charter, it could be inferred from other rights:

Although the right to housing or shelter is not explicitly provided for under the African Charter, the corollary of the combination of the provisions protecting the right to enjoy the best attainable state of mental and physical health, ..., the right to property, and the protection accorded to the family forbids the wanton destruction of shelter because when housing is destroyed, property, health, and family life are adversely affected. It is thus noted that the combined effect of articles 14, 16 and 18 (1) reads into the Charter a right to shelter or housing....

Several international guidelines and principles also set out specific provisions related to the right to adequate housing. While not legally binding, they provide useful guidance regarding the implementation of the right to adequate housing, notably for specific groups such as workers, refugees and internally displaced persons, old persons, and indigenous peoples.⁷ Of particular relevance are the *Basic principles and guidelines*

⁷ United Nations Principles for Older Persons, Principles on Housing and Property Restitution for Refugees and Displaced Persons, Guiding Principles on Internal Displacement; ILO Recommendation No. 115 concerning Workers' Housing, and United Nations Declaration on the Rights of Indigenous Peoples.

on *development-based evictions and displacement* developed under the mandate of the Special Rapporteur on adequate housing. They outline States' obligations to protect against forced evictions, along with specific obligations before, during and after development-based evictions.

Basic principles and guidelines on development-based evictions and displacement

22. States must adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations. ...

32. ... Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based evictions and displacement, "Eviction-impact" assessment should also include exploration of alternatives and strategies for minimizing harm.

37. Urban or rural planning and development processes should involve all those likely to be affected....

38. States should explore fully all possible alternatives to evictions. ...

52. ... At a minimum, ..., competent authorities shall ensure that evicted persons or groups, ..., have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; (g) education for children and childcare facilities. ...

55. Identified relocation sites must fulfil the criteria for adequate housing according to international law. ...

Numerous conferences, declarations and plans of action, such as the Vancouver Declaration on Human Settlements (1976), Agenda 21 (1992), the Istanbul Declaration on Human Settlements (1996), the Habitat Agenda (1996) and the Millennium Declaration and Millennium Development Goals (2000) have also helped clarify various aspects of the right to adequate housing and have reaffirmed States' commitments to its realization.

The Habitat Agenda

The outcome of the Habitat II Conference—the Istanbul Declaration and the Habitat Agenda—constitutes a framework for linking human settlements development to the realization of human rights in general and housing rights in particular. The Habitat Agenda states that, *within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing* (para. 61).

International humanitarian law also entails specific protection of the right to adequate housing during international and non-international armed conflicts.⁸ The Rome Statute of the International Criminal Court recognizes as a war crime the extensive destruction and appropriation of property that is not justified by military necessity and carried out unlawfully and wantonly (art. 8).

Finally, several constitutions explicitly refer to the right to adequate housing, including those of Belgium, Seychelles, South Africa and Uruguay.⁹ Other constitutions suggest a general responsibility of the State for ensuring adequate housing and living conditions for all.¹⁰

⁸ Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (art. 53); Protocol I (art. 69); and Protocol II (art. 17).

⁹ See also the constitutions of Ecuador, Guyana, Haiti, Honduras, Iran (Islamic Republic of), Maldives, Mali, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Russian Federation, Sao Tome and Principe, and Spain.

¹⁰ See the constitutions of Argentina, Bangladesh, Brazil, Burkina Faso, Colombia, Costa Rica, Dominican Republic, El Salvador, Finland, Guatemala, Nepal, Netherlands, Nigeria, Pakistan, Philippines, Poland, Republic of Korea, Sri Lanka, Sweden, Switzerland, Turkey, Venezuela (Bolivarian Republic of) and Viet Nam.

The right to adequate housing in selected national constitutions

Constitution of Mexico, 1917 (as amended in 1983)

Article 4

[...] Every family has the right to enjoy decent and proper housing. The law shall establish the instruments and necessary supports to reach the said goal. [...]

Constitution of Portugal, 1976 (fourth revision based on Constitutional Law No. 1/97 of 20 September 1997)

Article 65. Housing and Urban Planning

(1) All have the right, both personally and for their family, to a dwelling of adequate size that meets satisfactory standards of hygiene and comfort and preserves personal and family privacy.

Constitution of the Russian Federation, 1993

Article 40

(1) Everyone has the right to a home. No one may be arbitrarily deprived of a home.

Constitution of South Africa, 1996

Article 26. Housing

(1) Everyone has the right to have access to adequate housing.

(2) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

Article 28. Children

(1) Every child has the right to... shelter....

See United Nations Housing Rights Programme, "Report No. 1: Human rights legislation: Review of international and national legal instruments" (2002).

II. HOW DOES THE RIGHT TO ADEQUATE HOUSING APPLY TO SPECIFIC GROUPS?

Some groups or individuals have a particularly hard time exercising their right to adequate housing as a result of who they are, discrimination or stigma, or a combination of these factors. To protect the right to housing effectively, it is necessary to pay attention to the specific situation of individuals and groups, in particular those living in vulnerable situations. States should adopt positive measures to ensure that they are not discriminated against in purpose or effect. For instance, they should tailor their housing laws and policies to those most in need rather than merely targeting majority groups.

Discussion on the particular groups outlined below is intended to help illustrate what the standards related to the right to adequate housing mean in practice.

A. Women

Although data are lacking and figures are hard to estimate, it is widely thought that women represent an important proportion of those who

The Convention on the Elimination of All Forms of Discrimination against Women

Article 14 (2)

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
[...]

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Article 15 (2)

States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

are inadequately housed. Women face discrimination in many aspects of housing because they are women, or because of other factors such as poverty, age, class, sexual orientation or ethnicity. In many parts of the world, and especially in rural areas, women's enjoyment of the right to adequate housing often depends on their access to and control over land and property.

Discrimination against women in the housing sphere can be caused, for instance, by: discriminatory statutory laws; gender-neutral laws and policies that fail to take into account women's special circumstances (such as their vulnerability to sexual and gender-based violence); the predominance of customary laws and practices which discriminate against women; bias in the judiciary and public administration; lack of access to remedies, information or decision-making processes; and lack of awareness of rights. This discrimination is underpinned by structural and historical factors.

Women and inheritance

In many parts of the world, women and girls face entrenched discrimination in inheritance, which can seriously affect their enjoyment of the right to adequate housing. Such discrimination can be enshrined in statutory laws as well as in customary laws and practices that fail to recognize women's equal rights to men in inheritance. As a result, women are either entitled to a lesser share than male relatives, or are simply dispossessed from any heritage of their deceased husbands or fathers.

Violence is common within the context of inheritance, as a woman's property can be forcibly seized by relatives, an attempt that often involves physical and psychological violence, and long-lasting trauma. Relatives often abuse widows with impunity, as these matters are seen as a private family affair.

If a woman decides to fight for her inheritance, she may also face violence from her in-laws or even from the community at large. In general, women's claims for inheritance can result in social exclusion, not only from the family but also from the community.

See "Women and adequate housing: Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari" (E/CN.4/2005/43, paras. 59–61).

Women face severe discrimination regarding security of tenure. Regardless of its form, tenure is often understood, recorded or registered in the name of men, leaving women dependent on their male relatives for tenure security. Moreover, while collective forms of tenure can include women, the decision-making processes are often dominated by men.

Without control over housing, land or property, women enjoy little personal or economic autonomy and are more vulnerable to abuse within the family, community and society at large. When women's access to housing, land or property depends on a third person—their husbands, brothers, fathers or other male relatives—they become vulnerable to homelessness, poverty and destitution if this relationship comes to an end.

While forced evictions have an impact on both men and women, women tend to be disproportionately affected. Women are often exposed to violence and intense emotional stress before, during and after an eviction, because of their close ties to the home and their role as caregivers for the entire family.¹¹ During evictions, verbal abuse, beatings and rape may take place. Following an eviction, women are often more vulnerable to abuse, particularly if they have been forced to move to inadequate housing, often in informal settlements. The lack of shelter and privacy in such settlements can lead to increased exposure to sexual and other forms of violence. When housing conditions are inadequate, women are often disproportionately affected. For instance, women are usually responsible for collecting water if water and sanitation services are inadequate, and often spend up to 4 hours a day walking, queuing and carrying water.

Domestic violence has been identified as a major cause of women and children becoming homeless, especially when there is insufficient protection by law enforcement officials or by the legal system itself. Conversely, fear of homelessness might compel women to remain in abusive relationships.

B. Children

Children's health, educational advancement and overall well-being are deeply influenced by the quality of housing in which they live. Lack of adequate housing, forced evictions or homelessness tend to have a profound impact on children due to their specific needs, affecting their growth, development and enjoyment of a whole range of human rights, including the right to education, health and personal security.

¹¹ "Economic and social policy and its impact on violence against women" (E/CN.4/2000/68/Add.5).

The Convention on the Rights of the Child

Article 16 (1)

No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. [...]

In its *State of the World's Children 2005* report, the United Nations Children's Fund (UNICEF) revealed that more than one out of every three children in the developing world—over 640 million children—does not live in adequate housing. Given the pervasiveness and the impact of homelessness and inadequate housing on children, the United Nations Committee on the Rights of the Child has emphasized the universal character of the right to adequate housing, stressing that it applies to every child without distinction or restriction of any kind.

While the existence of millions of street children is often the most visible sign of children's lack of shelter, other situations also have specific ramifications for their enjoyment of the right to adequate housing. Cramped, crowded, noisy or run-down housing conditions seriously undermine children's development and health, as well as their capacity to learn or play. Studies have highlighted that the lack of adequate housing increases mortality rates for children under five, while the most significant form of chemical pollutant affecting children's health in

low- and middle-income countries is indoor pollution resulting notably from poor-quality stoves and inadequate ventilation.¹²

Access to basic services attached to the home, such as safe drinking water and adequate sanitation, is fundamental to ensuring children's health. Diarrhoeal diseases claim the lives of nearly two million children every year; 80 to 90 per cent of these cases are the result of contaminated water and inadequate sanitation. Particularly for girls, lack of safe drinking water within or close to the home can mean long journeys to collect water at remote water points, often to the detriment of their education, along with the risk of being subjected to harassment and other threats along the way.

The location of housing is also crucial to ensuring children's access to childcare, schools, health care and other services. If settlements are far away from schools, or if transport is either non-existent or too expensive, it is hard for children to get an education or health care.

Homelessness has particular effects on children, compromising their growth, development and security. Homeless children can be vulnerable to a range of emotional problems, including anxiety, sleeplessness, aggression and withdrawal. Their access to basic services, such as health care and education, can also be seriously impaired if they have no fixed address. Children living and working in the street are particularly vulnerable to threats, harassment and violence by private individuals and the police.

Forced evictions tend to affect the entire family but have a particular impact on children. Following forced evictions, family stability is often jeopardized and livelihoods threatened. The impact of forced evictions on children's development is considered to be similar to that of armed conflict.¹³

C. Slum-dwellers

By the end of 2008, half of the world's population was thought to be living in cities, many without adequate infrastructure and services. UN-Habitat notes that the most insecure urban residents are the world's 1 billion poor people living in slums. More than 930 million slum-dwellers

¹² UNICEF, *Poverty and exclusion among urban children*, Innocenti Digest No. 10 (Florence, 2002), p. 10.

¹³ T. Rahmatullah, *The Impact of Evictions on Children: Case Studies from Phnom Penh, Manila and Mumbai* (New York, United Nations Economic and Social Commission for Asia and the Pacific and The Asian Coalition for Housing Rights, 1997).

live in developing countries, where they constitute 42 per cent of the urban population. This proportion is particularly high in Sub-Saharan Africa, where slum-dwellers make up 72 per cent of the urban population, and in Southern Asia, where they represent 59 per cent.

Slums are blighted by a lack of durable housing, insufficient living space, a lack of clean water, inadequate sanitation, etc. Due to the informal nature of their settlements, slum-dwellers often lack tenure security, which makes them vulnerable to forced evictions, threats and other forms of harassment. UN-Habitat reports that around 2 million people, most of them slum-dwellers, are forcibly evicted every year. The effects of forced evictions on slum-dwellers are often disastrous, leaving them homeless and forcing them deeper into poverty.

Authorities—national or local—are often reluctant to extend basic services to slums precisely because they are informal. As a result, slum-dwellers rarely have access to safe drinking water, adequate sanitation or electricity, and refuse collection is limited or non-existent. As slums are not connected to the piped water systems, slum-dwellers often end up paying 5 to 10 times more for water than higher-income urban residents.¹⁴

Slum upgrading is acknowledged as an effective means of improving the housing conditions of slum-dwellers. It has been defined by the Cities Alliance—a global alliance of cities launched by the World Bank and UN-Habitat in 1999—as consisting of “physical, social, economic, organizational and environmental improvements undertaken cooperatively and locally among citizens, community groups, businesses and local authorities.”¹⁵ Slum upgrading programmes can contribute to the realization of the right to adequate housing for slum-dwellers if they ensure tenure security to all, including tenants; take into account women’s rights and ensure non-discrimination in tenure schemes; and guarantee the full and meaningful participation of affected communities.

D. Homeless persons

The Special Rapporteur on adequate housing has called homelessness “perhaps the most visible and most severe symptom of the lack of respect for the right to adequate housing.”

¹⁴ United Nations Development Programme, *Human Development Report 2006, Beyond scarcity: Power, Poverty and the Global Water Crisis* (New York, 2006), pp. 52–53.

¹⁵ World Bank and UNCHS (Habitat), *Cities Alliance for Cities Without Slums: Action Plan for Moving Slum Upgrading to Scale*, Special Summary Edition (1999), p. 2 (available at: www.citiesalliance.org).

There is no internationally agreed definition of homelessness. Definitions range from the narrow—equating homelessness with “rooflessness”—to the broad, based on the adequacy of the dwelling, the risk of becoming homeless, the time exposed to homelessness and responsibilities for taking alleviating action. For statistical purposes, the United Nations has defined homeless households as “households without a shelter that would fall within the scope of living quarters. They carry their few possessions with them, sleeping in the streets, in doorways or on piers, or in any other space, on a more or less random basis.”¹⁶ The Special Rapporteur on adequate housing has noted that narrow definitions are inadequate and that in developing countries the most common definitions recognize that an element of social exclusion is part of the experience of the homeless. UN-Habitat underlines in this respect that homelessness implies belonging nowhere rather than simply having nowhere to sleep. Given the lack of a globally agreed definition of homelessness, limited data are available about the scale of this phenomenon, which in turn impedes the development of coherent strategies and policies to prevent and address it.

The Special Rapporteur on adequate housing has highlighted that poverty is a common denominator in the experience of the homeless. Other causes or factors which make people more vulnerable to homelessness are unemployment, a lack of social security systems, a lack of affordable housing, forced evictions, non-availability of social housing, conflicts and natural disasters, as well as a lack of attention to the needs of the most vulnerable.

The “deinstitutionalization” of mental health care, which first started in many countries during the 1960s and 1970s, led to persons with disabilities swelling the ranks of the homeless unless it was accompanied by a parallel growth in community or other support.

Besides the violation of their right to adequate housing, homeless persons may be deprived of a whole range of other human rights. Laws that criminalize homelessness, vagrancy or sleeping rough, along with street cleaning operations to remove homeless people from the streets, have a direct impact on their physical and psychological integrity. Merely by not having a secure place to live, nor any privacy, homeless persons are much more vulnerable to violence, threats and harassment.

¹⁶ *Principles and Recommendations for Population and Housing Censuses* (United Nations publication, Sales No. 07.XVII.8 P), para 1.328.

States' obligations towards the full realization of the right to adequate housing include taking measures to prevent homelessness. Among the steps to be taken immediately, general comment No. 4 (paras. 10–13) mentions determining the extent of homelessness, as well as adopting a national housing strategy which should reflect extensive genuine consultation with the homeless. General comment No. 7 (para. 17) also emphasizes that forced evictions should not result in individuals being made homeless.

E. Persons with disabilities

There are more than 650 million persons with disabilities in the world, of whom approximately 80 per cent are living in developing countries. They generally experience several barriers to the enjoyment of their right to adequate housing, including lack of physical accessibility; ongoing discrimination and stigmatization; institutional hurdles; lack of access to the labour market; low income; and lack of social housing or community support.

Accessibility remains a key issue. Housing, housing-related facilities and neighbourhoods are traditionally designed for people without disabilities. The frequent exclusion and marginalization of persons with disabilities often mean that they are rarely consulted when new housing structures or neighbourhoods are developed or slums upgraded. They are also vulnerable to associated violations of their rights. For instance, the lack of adequate sanitation facilities in informal settlements can pose severe challenges to them.

Security of tenure is another challenge for persons with disabilities, in particular those with an intellectual or psychosocial disability. The frequent lack of recognition of their legal capacity, often coupled with requirements for applications in person, means that persons with such disabilities are rarely able to enter into any type of formal housing contract (lease, ownership, etc.) and, therefore, have to rely on less formal avenues to secure housing. Those arrangements, in turn, make them more vulnerable to forced evictions.

In general, where stigmatization remains unaddressed and social or community services are unavailable—including social housing—persons with disabilities continue to face discrimination when seeking housing, or more general challenges in securing the resources necessary for obtaining

adequate housing. Such challenges inevitably make them more vulnerable to forced evictions, homelessness and inadequate housing conditions.

The **Convention on the Rights of Persons with Disabilities** requires States to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities, including their right to adequate housing.

Article 1 requires States to promote respect for their inherent dignity.

Article 9 further demands that States adopt measures to identify and eliminate obstacles and barriers to accessibility, notably in relation to housing.

Article 12 recognizes that persons with disabilities enjoy legal capacity on an equal basis with others and requires States to take appropriate measures to enable persons with disabilities to exercise legal capacity.

Article 28 recognizes the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate housing, and demands that States take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability, for instance by ensuring that persons with disabilities have access to public housing programmes.

General comment No. 4 provides that persons with disabilities must be accorded full and sustainable access to adequate housing resources, and that housing law and policy should take into account their special needs. In its general comment No. 5 (1994), the Committee on Economic, Social and Cultural Rights reaffirmed that the right to adequate housing includes accessibility for persons with disabilities. The Special Rapporteur on adequate housing has also underlined not only that housing should be physically and economically accessible to persons with disabilities, but that they should be able to effectively participate in the life of the community where they live.

F. Displaced persons and migrants

People on the move, whether they are refugees, asylum-seekers, internally displaced persons (IDPs) or migrants, are particularly vulnerable to a range

of human rights violations, including violations of the right to adequate housing. Displaced persons are also particularly vulnerable to discrimination, racism and xenophobia, which can further interfere with their ability to secure sustainable and adequate living conditions. People who have been forcibly displaced will often have suffered trauma during their flight, and will have lost familiar coping strategies and support mechanisms.

Refugee and IDP camps around the world, particularly when displacement is protracted, are often dilapidated and overcrowded, providing inadequate shelter and services. Sometimes their inhabitants enjoy no basic services at all. Displaced women and girls living in camps can be subject to sexual and gender-based violence, for instance because not enough attention is paid to their specific needs and vulnerabilities in the design and layout of the camp.

In urban areas, urban refugees, asylum-seekers and IDPs can fare little better. Often unable in practice or because of their legal status to rent adequate accommodation, many are forced to live in overcrowded and insecure conditions. Migrants will also often end up living in precarious and unsafe conditions in cities and urban areas. Employers may oblige migrant domestic workers or factory workers to live at their place of work. Many will end up living in overcrowded dormitories, sleeping in shifts and without access to adequate sanitation. Domestic workers can be made to sleep in poorly ventilated rooms, storerooms or common living areas with no regard for their dignity, privacy or personal security.

Irregular or undocumented migrants, including rejected asylum-seekers, are particularly vulnerable to human rights abuses, including violation of their right to adequate housing. Irregular migrants are often homeless, as an inability to pay rent usually results in immediate eviction. Their lack of legal status, and the criminalization of irregular migration in many countries, means that most will be unable or unwilling to challenge discriminatory or otherwise abusive rental practices and seek legal remedies. National housing strategies rarely include migrants, and will practically never include irregular migrants.

In the context of durable solutions, an emerging norm of housing and property restitution guarantees rights for refugees and IDPs who have decided voluntarily to return to their original homes. Voluntary repatriation/return has in recent years been expanded to mean more than the mere return to one's country for refugees or one's city or region for IDPs. It is increasingly taken to mean the return to and reassertion of control over

one's original home, land or property. Refugees and IDPs who choose not to return to their homes must be protected against forced return in all circumstances, and should be enabled to resettle in conditions that respect, inter alia, their right to adequate housing.

Under the **Convention Relating to the Status of Refugees**, State parties are obliged to provide refugees with treatment as favourable as possible, and not less favourable than that accorded to aliens generally in the same circumstances, with regard to housing (art. 21).

Article 43 of the **International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families** guarantees equal treatment in access to housing, including social housing schemes, and protection against exploitation in respect of rents to regular migrants and their families.

ILO Convention No. 97 concerning Migration for Employment (Revised) (1949) addresses the accommodation of migrant workers.

The **Guiding Principles on Internal Displacement**, issued by the Representative of the Secretary-General on internally displaced persons, recall that all IDPs have the right to an adequate standard of living and that, at a minimum, regardless of the circumstances and without discrimination, the competent authorities shall provide IDPs with and ensure safe access to basic shelter and housing (principle 18).

General recommendation No. 30 (2004) of the Committee on the Elimination of Racial Discrimination calls on State parties to "guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices."

This change has been increasingly reflected in international, regional and national laws and other instruments which explicitly recognize housing and property restitution as a human right. In August 2005, the United Nations Sub-Commission on the Protection and Promotion of Human Rights adopted the Principles on housing and property restitution for refugees and displaced persons, also known as the "Pinheiro Principles". These provide specific policy guidance to ensure the right to housing and property restitution in practice, and the implementation

of restitution laws, programmes and policies based on existing international human rights, humanitarian and refugee law, and on national standards.¹⁷

The “Pinheiro Principles”

Principle 2: The right to housing and property restitution

2.1 All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived [...].

Principle 12: National procedures, institutions and mechanisms

12.1 States should establish and support equitable, timely, independent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property restitution claims. [...]

Principle 13: Accessibility of restitution claims procedures

13.1 Everyone who has been arbitrarily or unlawfully deprived of housing, land and/or property should be able to submit a claim for restitution and/or compensation to an independent and impartial body [...].

Principle 18: Legislative measures

18.1 States should ensure that the right of refugees and displaced persons to housing, land and property restitution is recognized as an essential component of the rule of law. States should ensure the right to housing, land and property restitution through all necessary legislative means, including through the adoption, amendment, reform or repeal of relevant laws, regulations and/or practices. States should develop a legal framework for protecting the right to housing, land and property restitution which is clear, consistent and, where necessary, consolidated in a single law.

G. Indigenous peoples

Indigenous peoples are more likely than other groups to live in inadequate housing conditions and will often experience systemic discrimination

¹⁷ “Housing and property restitution in the context of the return of refugees and internally displaced persons: Final report of the Special Rapporteur, Paulo Sérgio Pinheiro” (E/CN.4/Sub.2/2005/17). See also Food and Agriculture Organization of the United Nations and others, *Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the “Pinheiro Principles”* (2007).

in the housing market.¹⁸ Of particular concern is their generally poor housing situation (especially compared to majority populations), including inadequate basic services, their vulnerability as groups affected by displacement, the insecure tenure they often have over their traditional lands, and the culturally inappropriate housing alternatives often proposed by the authorities. Indigenous peoples suffer discrimination in almost all aspects of housing: laws and policies discriminate against them for instance by failing to take account of their specific circumstances; there is discrimination in the allocation of resources for housing, including credits and loans; and private landlords discriminate against them in the rental market.

While the majority of indigenous peoples around the world still live in rural areas, increasing numbers are, voluntarily or involuntarily, migrating to urban areas, leaving behind their traditional lands, territories and resources, and often facing increased poverty. As a result, the housing conditions of many indigenous peoples and individuals in urban areas are inadequate. Indigenous women often bear the brunt of poor housing conditions. Considering that in some countries more than half the indigenous population now lives in cities, their right to adequate housing poses a new challenge to Governments.¹⁹

Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights stipulates that the right to adequate housing extends to everyone. In addition, article 2 (2) provides that all of the rights in the Covenant must be exercised without discrimination. This means that indigenous peoples are entitled to enjoy the right to adequate housing without discrimination and on an equal footing with the majority population.

¹⁸ United Nations Housing Rights Programme, "Report No. 7: Indigenous peoples' right to adequate housing. A global overview" (2005).

¹⁹ UN-Habitat, *Housing Indigenous Peoples in Cities: Policy Guide to Housing for Indigenous Peoples in Cities*, Urban Policy Guides for Indigenous Peoples (Nairobi, 2009).

The **United Nations Declaration on the Rights of Indigenous Peoples** (2007) sets out the minimum international standards for the protection and promotion of the rights of indigenous peoples necessary for their survival, well-being and dignity. The rights of particular relevance to the right to adequate housing contained in this Declaration include the right to self-determination, rights related to lands, resources and territories, social and economic rights, and rights related to non-discrimination. Violations of indigenous peoples' right to self-determination and rights related to lands, resources and territories often lead to violations of their rights to adequate housing. Article 21 (1) recognizes the right to, inter alia, improved housing. Moreover, the Declaration further underscores the importance of indigenous peoples' right to determine their own housing institutions, programmes and policies.

In its general recommendation No. 23 (1997), the **Committee on the Elimination of Racial Discrimination** reflects explicitly on discrimination against indigenous peoples, and calls on States parties to recognize and protect their rights "to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories."

ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989) calls on Governments to ensure that indigenous workers are not discriminated against with respect to housing (art. 20 (2)(c)).

III. WHAT ARE THE OBLIGATIONS ON STATES AND THE RESPONSIBILITIES OF OTHERS?

States have the primary obligation to protect and promote human rights. Human rights obligations are defined and guaranteed by international customary law (evidence of a general practice of States accepted as law and followed out of a sense of legal obligation) and international human rights treaties, creating binding obligations on the States that have ratified them to give effect to these rights.

A. General obligations

Through their ratification of human rights treaties, States are required to give effect to these rights within their jurisdictions. Some obligations are of *immediate effect*, including the fundamental undertaking to guarantee that the right to adequate housing is exercised on the basis of *non-discrimination*.

Under the International Covenant on Economic, Social and Cultural Rights, States have the obligation to achieve progressively the full realization of the right to adequate housing. In other words, the Covenant acknowledges that States have resource constraints and that it may take time to ensure the right to adequate housing to everyone. Some components of the right to adequate housing are, therefore, deemed *subject to progressive realization*. However, obligations such as non-discrimination are *not* subject to progressive realization.

The International Covenant on Economic, Social and Cultural Rights, article 2 (1)

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

While not all aspects of the right to adequate housing can or may be realized immediately, States must, at a minimum, show that they are making every possible effort, within available resources, to better protect and promote this right. Available resources refer to those existing within a State as well as those available from the international community through international cooperation and assistance, as outlined in articles 2 (1), 11 and 23 of the Covenant.

Article 3 of the Covenant further obliges each State party to ensure the equal right of men and women to the enjoyment of the rights set forth in it.

The International Covenant on Economic, Social and Cultural Rights, article 2 (2)

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

There is also an immediate obligation to *take steps*, which should be concrete, deliberate and targeted, to fulfil the right to adequate housing. Each State should guarantee at least minimum essential levels of this right. For instance, it should ensure that significant numbers are not deprived of basic shelter and housing. If a State cannot do so, it must demonstrate that it has made every effort to use all available resources to satisfy, as a matter of priority, these minimum essential levels. Likewise, if it adopts a retrogressive measure, i.e., one that weakens the protection of the right to adequate housing, it will have to demonstrate that it carefully weighed all the options, considered the overall impact on all human rights of the measure and fully used all its available resources. As the most feasible measures to implement the right to adequate housing will vary from State to State, international treaties do not offer set prescriptions. The Covenant simply states that the full realization of the rights contained in it must be achieved through “all appropriate means, including particularly the adoption of legislative measures.”

The Committee has also stated that certain measures must be taken immediately, for instance those aimed at conferring legal security of tenure to those lacking such protection; effectively monitoring the housing situation, notably to ascertain the full extent of homelessness and inadequate housing; protection against forced evictions; and the provision of effective legal or other appropriate remedies for violations of the right to adequate housing.

Progressive realization of the right to adequate housing in practice

With reference to the Dominican Republic, the Committee on Economic, Social and Cultural Rights stressed that: "In order to achieve progressively the right to housing, the Government is requested to undertake, to the maximum of available resources, the provision of basic services (water, electricity, drainage, sanitation, refuse disposal, etc.) to dwellings and ensure that public housing is provided to those groups of society with the greatest need. It should also seek to ensure that such measures are undertaken with full respect for the law. In order to overcome existing problems recognized by the Government in its dialogue with the Committee, the Government is urged to give consideration to initiatives designed to promote the participation of those affected in the design and implementation of housing policies. Such initiatives could include: (a) a formal commitment to facilitating popular participation in the urban development process; (b) legal recognition of community-based organizations; (c) the establishment of a system of community housing finance designed to open more lines of credit for poorer social sectors; (d) enhancing the role of municipal authorities in the housing sector; (e) improving coordination between the various governmental institutions responsible for housing and considering the creation of a single governmental housing agency" (E/C.12/1994/20, paras. 332–333).

The role of international assistance and cooperation is reflected in other instruments as well, such as the Charter of the United Nations, the Universal Declaration of Human Rights and the Convention on the Rights of the Child. It is not a substitute for domestic obligations, but it becomes relevant if a State is unable to give effect to economic, social and cultural rights on its own, and requires assistance from other States to do so. International cooperation is particularly incumbent upon those States that are in a position to assist others in this regard. States should thus have an active programme of international assistance and cooperation, and provide economic and technical assistance to enable other States to meet their obligations in relation to the right to adequate housing. This general obligation to cooperate internationally is reflected in the Committee's general comments No. 3 (1990) on the nature of States parties' obligations and No. 14 (2000) on the right to the highest attainable standard of health.

B. Three types of obligations

State obligations fall into three categories, namely the obligations to *respect*, *protect* and *fulfil*.

The obligation to respect

The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to adequate housing.

For example, States should refrain from carrying out forced evictions and demolishing homes; denying security of tenure to particular groups; imposing discriminatory practices that limit women's access to and control over housing, land and property; infringing on the right to privacy and protection of the home; denying housing, land and property restitution to particular groups; or polluting water resources.

The obligation to protect

The obligation to protect requires States to prevent third parties from interfering with the right to adequate housing.

States should adopt legislation or other measures to ensure that private actors—e.g., landlords, property developers, landowners and corporations—comply with human rights standards related to the right to adequate housing. States should, for instance, regulate the housing and rental markets in a way that promotes and protects the right to adequate housing; guarantee that banks and financial institutions extend housing finance without discrimination; ensure that the private provision of water, sanitation and other basic services attached to the home does not jeopardize their availability, accessibility, acceptability and quality; ensure that third parties do not arbitrarily and illegally withdraw such services; prevent discriminatory inheritance practices affecting women's access to and control over housing, land and property; ensure that landlords do not discriminate against particular groups; ensure that private actors do not carry out forced evictions.

The obligation to fulfil

The obligation to fulfil requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to adequate housing.

States must, for instance, adopt a national housing policy or a national housing plan that: defines the objectives for the development of the

housing sector, with a focus on disadvantaged and marginalized groups; identifies the resources available to meet these goals; specifies the most cost-effective way of using them; outlines the responsibilities and time frame for the implementation of the necessary measures; monitors results and ensures adequate remedies for violations.

Under the obligation to fulfil, States must also, progressively and to the extent allowed by their available resources, prevent and address homelessness; provide the physical infrastructure required for housing to be considered adequate (this would include taking steps towards ensuring universal and non-discriminatory access to electricity, safe drinking water, adequate sanitation, refuse collection and other essential services); or ensure adequate housing to individuals or groups unable, for reasons beyond their control, to enjoy the right to adequate housing, notably through housing subsidies and other measures.

C. The responsibilities of others

The obligation on States to protect human rights includes ensuring that non-State actors do not infringe upon the right to adequate housing. This is the obligation to protect described above. In addition, there is an increasing debate about the extent to which other actors in society—individuals, intergovernmental and non-governmental organizations (NGOs), and business—have responsibilities with regard to the promotion and protection of human rights.

This section explores the role of United Nations agencies and the private sector.

United Nations agencies

According to the Charter of the United Nations, one of the purposes of the United Nations is to promote respect for human rights. International human rights treaties also envisage a particular role for United Nations agencies in their implementation. In general comment No. 2 (1990) on international technical assistance measures, the Committee on Economic, Social and Cultural Rights also underlined that all United Nations organs and agencies involved in any aspect of international development cooperation should ensure that the rights contained in the Covenant are fully taken into account at each phase of a development project.

The United Nations Human Settlements Programme (UN-Habitat)

UN-Habitat is the United Nations agency for human settlements. It is mandated by the General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. To rise to this challenge, UN-Habitat is implementing its Medium-term Strategic and Institutional Plan for 2008-2013. The Plan aims for sustainable urbanization which can be achieved only if slum upgrading and prevention are addressed through adequate approaches that enable the provision of pro-poor land and housing as well as equitable access to infrastructure and services. The expected key results in the focus area “pro-poor land and housing” are:

- Effective gender- and age-sensitive shelter strategies and improved regulatory frameworks and capacities that provide for progressive realization of housing, land and property rights and for slum upgrading and prevention adopted and implemented by Member States;
- Membership-based community organizations for housing, land acquisition and urban infrastructure development formed/strengthened;
- Improved access to land, housing and property with special focus on the urban poor and populations affected by human settlements in crisis;
- Sustainable gender-sensitive shelter relief and reconstruction models in post-disaster and post-conflict areas developed and implemented;
- Achievement of security of tenure through improved measurement of security of tenure, also for women and youth, in conjunction with the establishment and effective operations of a global monitoring and evaluation mechanism on progress in realization of housing, land and property rights.

The work of UN-Habitat is directly related to the United Nations Millennium Declaration, particularly Millennium Development Goal 7, target 7.D, to improve the lives of at least 100 million slum-dwellers by the year 2020, and target 7.C, which calls for the reduction by half of the number of people without sustainable access to safe drinking water and basic sanitation by 2015.

Source: www.unhabitat.org

In recent years, reforms of the United Nations by the Secretary-General (in 1997, 2002 and 2005) have highlighted the role and responsibilities of United Nations agencies and international financial institutions with respect to human rights. Both the World Bank and the Organisation for Economic Co-operation and Development (OECD) have adopted guidelines on relocation and/or resettlement to limit the scale of human suffering associated with forced evictions. In 2003, United Nations agencies, in a common understanding, affirmed that all development programmes and assistance should realize human rights and be guided by human rights principles and standards.

United Nations agencies have been working increasingly on housing-related issues and human rights. Particularly relevant is the United Nations Housing Rights Programme (UNHRP), launched jointly by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN-Habitat in 2002, to support the efforts by Governments, civil society and national human rights institutions (NHRIs) towards the realization of the right to adequate housing.

The private sector

Businesses and the private sector are important players. The private sector—e.g., property developers, construction firms and infrastructure providers—is directly involved in the construction of a significant portion of the housing stock. Companies are also involved in the management and maintenance of buildings and housing. In many countries, rental agreements and sales contracts between private parties cater for a significant proportion of the housing needs.

At the same time, the private sector can have a negative impact on the right to adequate housing. This may be particularly true in the context of the construction of large dams and other development projects, especially those involving resource extraction such as gas and oil, which may force residents to move or cause environmental degradation. Landlords, private owners, housing agencies or estate agencies can also affect the enjoyment of the right to adequate housing, notably if they carry out forced evictions or discriminate against particular groups, for instance by charging prohibitive rents.

The private sector can also have an impact on the enjoyment of the right to adequate housing in cases where housing is provided by the employer. ILO Recommendation No. 115 concerning Workers' Housing (1961) underlines that it is generally not desirable that employers should provide

housing for their workers directly. In exceptional circumstances where accommodation is provided by the employer, the fundamental human rights of workers must be recognized, and rents charged should not cost the worker more than a reasonable proportion of income and should not include a speculative profit. It further underlines that the provision by employers of accommodation and communal services in payment for work should be prohibited or regulated to the extent necessary to protect the interests of the workers.

While States retain the primary responsibility for ensuring that private actors respect human rights, according to the Special Representative of the United Nations Secretary-General on business and human rights, business enterprises have a responsibility to respect all human rights, including the right to adequate housing. This responsibility is the basic expectation society has of business, and it is recognized in a broad range of soft law instruments. It is also invoked by global business organizations and individual companies worldwide.

Various voluntary initiatives on business and human rights have also been launched. For example, the United Nations Global Compact²⁰ defines 10 principles related to human rights, labour standards, environment and anti-corruption that signatory companies pledge to respect. Some companies have developed their own human rights policies, programmes and tools to incorporate human rights into their business operations.

IV. MONITORING THE RIGHT TO ADEQUATE HOUSING AND HOLDING STATES ACCOUNTABLE

Mechanisms of accountability are crucial for ensuring that States respect their obligations in relation to the right to adequate housing. Monitoring takes place at national, regional and international levels, and involves a variety of actors, such as the State itself, civil society, NHRIs and international human rights mechanisms.

A. National accountability and monitoring

Accountability compels a State to explain what it is doing and why and how it is moving towards the realization of the right to adequate housing for all as expeditiously and effectively as possible. International human rights law does not prescribe an exact formula for domestic mechanisms of

²⁰ <http://www.unglobalcompact.org>

accountability and redress. At a minimum, all accountability mechanisms must be accessible, transparent and effective.

Administrative, policy and political mechanisms

Administrative and political mechanisms are complementary or a parallel means to judicial mechanisms of accountability. For instance, the development of a national housing policy or strategy, linked to work plans and participatory budgets, plays an important role in ensuring Government accountability. Human rights-based indicators support the effective monitoring of key housing outcomes and some of the processes to achieve them. Furthermore, assessments of various kinds, such as human rights impact assessments, offer a way for policymakers to anticipate the likely impact of a projected policy and later to review its actual impact on the enjoyment of the right to adequate housing.

Political mechanisms, such as democratic processes, and monitoring and advocacy by independent actors also contribute to accountability. Civil society organizations and others are increasingly using monitoring methods based on indicators, benchmarks, impact assessments and budgetary analysis to hold Governments accountable in relation to the right to adequate housing. Indicators, especially when disaggregated by prohibited grounds of discrimination (e.g., sex), provide useful information on how the right to adequate housing is realized in a particular national context. OHCHR has developed a conceptual and methodological framework for using indicators to promote and monitor the implementation of human rights—both civil and political as well as economic, social and cultural.

A proposed framework for human rights indicators

The framework adopted by OHCHR and more specifically its set of indicators should bring to the fore an assessment of steps taken by a State in addressing its obligations—from its acceptance of international human rights standards (*structural* indicators) to its efforts to meet the obligations that flow from the standards (*process* indicators), and on to the results of those efforts from the perspective of the affected population (*outcome* indicators). Examples of indicators for the right to adequate housing are the date of the inclusion of the right to adequate housing in the constitution (*structural* indicator); the share of public expenditure on social or community housing (*process* indicator); the proportion of the urban population living in slums and/or the reported cases of forced evictions (*outcome* indicator). It is also crucial to produce indicators that are disaggregated by relevant group and possible grounds of discrimination.

This framework has been validated through workshops and consultations organized by OHCHR with national and international human rights stakeholders, including experts from the international human rights treaty bodies, United Nations special rapporteurs, United Nations specialized agencies, NHRIs, statistics agencies and NGOs. See “Report on indicators for promoting and monitoring the implementation of human rights” (HRI/MC/2008/3). For the right to housing, the framework also builds on the results of a previous initiative by the United Nations Housing Rights Programme to establish a global monitoring mechanism for the progressive realization of the right to adequate housing. United Nations Housing Rights Programme, “Working Paper No. 2: Housing rights indicators: Measuring the progressive realization of the right to adequate housing” (forthcoming).

Judicial mechanisms

Judicial mechanisms are a crucial component of domestic enforcement measures, providing adequate remedies to individuals if their right to adequate housing is violated.

The incorporation in domestic laws of international instruments recognizing the right to adequate housing can significantly broaden and improve remedial measures. It enables courts to adjudicate violations by direct reference to the International Covenant on Economic, Social and Cultural Rights, the constitution or specific laws recognizing or

incorporating elements of the right to adequate housing. Domestic courts are increasingly hearing such cases.

A notable example came from the **Constitutional Court of South Africa** in the case *The Government of the Republic of South Africa and others v. Grootboom and others*.

Ms. Grootboom and others, evicted from private property and living on the edge of a sports field in appalling conditions, launched a legal action for immediate relief when winter rains made their temporary shelter unsustainable. The Court determined that, although there was a comprehensive housing legislation and policy in place aimed at the progressive realization of the right to adequate housing, these failed to take into account the situation of people in desperate need. The Court applied a test of reasonableness to the housing policy and concluded that it did not meet this test, as a reasonable part of the national housing budget was not devoted to people in desperate need. While the Court found that the State had no obligation to provide housing immediately upon demand, it did hold that the State must provide relief for those in desperate need. Additionally, the Court held that the obligation to progressively provide housing included the immediate obligation to draft and adopt a plan of action to devote reasonable resources towards the implementation of that plan.

Legal aid and access to remedies

Victims of violations of the right to adequate housing often belong to the most marginalized and discriminated groups, such as the urban and rural poor, racial or ethnic minorities, indigenous peoples, irregular migrants, internally displaced persons or women. Providing legal aid can ensure that victims have access to remedies in cases related to the violation of the right to adequate housing. Otherwise, they might, for instance, have to choose between paying court fees and sending their children to school.

To ensure that judicial remedies are effective, an independent and functioning judiciary is vital. Judges and lawyers must be able to conduct their work impartially, on the basis of facts and in accordance with the law, without any improper influences, threats or interference. Members of

the judiciary, lawyers and other legal professionals must be competent to perform their role and accountable for poor performance.

National human rights institutions

National human rights institutions (NHRIs) advise the Government and recommend policy or legislative changes, handle complaints, undertake investigations, ensure the ratification and implementation of international human rights treaties, and provide training and public education.²¹ NHRIs sometimes have quasi-judicial functions and a mandate allowing them to contribute to the development of legislation. Most institutions are called commissions or ombudsmen.

National human rights commissions and the right to adequate housing: some examples

The *Australian Human Rights and Equal Opportunity Commission* has a well-developed practice of inquiry into systemic violations of human rights, especially economic, social and cultural rights. The first inquiry concerned the rights of homeless children. In its 1989 report *Our Homeless Children: Report of the National Inquiry into Homeless Children*, the Commission made a series of detailed recommendations to the national and State Governments of Australia and to private and community organizations. It recommended, for instance, that “where children and young people leave or ought to leave home because of serious neglect or abuse, the Commonwealth should meet the obligation to support them, regardless of their age, in conditions where they are protected and can develop as required by the Declaration of the Rights of the Child”. The report raised community awareness of child homelessness as a human rights issue and raised public expectations of more effective Government action to address the needs of the children concerned.

The *Kenya National Commission on Human Rights* has a specific programme to monitor the realization of economic, social and cultural rights; promote them; address violations of these rights; and conduct research and produce reports on issues related to their enjoyment. As part of this focus, the Commission has notably been working on forced evictions and informal settlements. It has also been working with ministries and organizations active in housing to develop national guidelines to prevent and remedy evictions.

²¹ See General Assembly resolution 48/134 on national institutions for the protection and promotion of human rights (“Paris Principles”).

In some countries NHRIs are increasingly focusing their work on ensuring protection of economic, social and cultural rights. As such, they can provide another avenue for the protection of the right to adequate housing.

In addition to the work of NHRIs, some States have instituted other innovative ways to protect and promote housing rights in practice.

National rapporteur on the right to adequate housing

Inspired by the United Nations system of special procedures (described below), Brazil established national rapporteurs to monitor the implementation of economic, social and cultural rights throughout the country. One of these national rapporteurs focuses on the right to adequate housing and urban land, and can receive complaints from individuals and communities about alleged violations, conduct missions to investigate violations and make specific recommendations related to the right to adequate housing to the Brazilian Government.

See OHCHR, *Economic, Social and Cultural Rights: Handbook for National Human Rights Institutions*, Professional Training Series No. 12 (United Nations publication, Sales No. E.04.XIV.8).

B. Regional accountability

Some regional human rights conventions and treaties recognize the right to adequate housing.

The treaties' monitoring bodies and courts, in particular the African Commission on Human and Peoples' Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, and the European Committee of Social Rights, play an important role in protecting the right to adequate housing and have developed specific jurisprudence related to it.

The Ituango Massacres v. Colombia

The case of *the Massacres of Ituango v. Colombia* dealt with the forced eviction, displacement and housing destruction in the municipality of Ituango (La Granja and El Aro districts) in Colombia by paramilitaries aligned with the Government. It was brought by two NGOs and involved serious human rights violations, including forced evictions accompanied by high levels of violence.

In July 2006, the Inter-American Court found that the forced evictions and destruction of housing violated article 11 (2) (the right to be free from arbitrary or abusive interference with the home) and article 21 (the right to property) of the American Convention on Human Rights. The Court considered that the effect of the housing destruction was the loss not only of material possessions but also of the social frame of reference of the inhabitants. It also stated that it constituted a grave, unjustified and abusive interference in the victims' private life and home.

The Council of Europe's Commissioner for Human Rights, mandated to promote awareness of and respect for human rights in its member States, has also addressed the enjoyment of the right to adequate housing, notably in connection with discrimination against specific groups.

C. International monitoring

United Nations treaty bodies

Implementation of the United Nations core human rights treaties is monitored by committees of independent experts, often referred to as *treaty bodies*, such as the Committee on Economic, Social and Cultural Rights. These committees issue both *concluding observations* on the regular reports of States parties, as well as thematic *general comments*.

Concluding observations that address the right to adequate housing have been issued by several committees in addition to the Committee on Economic, Social and Cultural Rights. The Human Rights Committee has considered the right to adequate housing in relation to the principle of non-discrimination and protection against unlawful interference with one's privacy.²² The Committee on the Elimination of Racial Discrimination

²² See, for example, "Concluding observations of the Human Rights Committee: Portugal"

has highlighted cases of racial discrimination in preventing minority populations from enjoying effective access to adequate housing.²³ The Committee on the Rights of the Child has addressed a number of issues surrounding the right of all children to adequate housing, including the situation of street children and displaced children.²⁴ The Committee against Torture has raised concerns about the way in which forced evictions and relocation of Roma communities have been conducted, and has made recommendations.²⁵

In addition, the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Migrant Workers, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances (yet to be established) have *individual complaints mechanisms*. In some cases brought before it, the Committee against Torture, for instance, has expressed the view that forced evictions could be considered cruel, inhuman and degrading treatment or punishment.²⁶ In December 2008, the General Assembly adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It allows complaints in relation to *all* aspects of the right to adequate housing, rather than being limited, as was the case hitherto, to housing discrimination or to issues addressed by other treaties. The Optional Protocol will enter into force once it has been ratified by 10 States.

The United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living

“Special procedures” is the generic name given to the mechanisms established and mandated by the Commission on Human Rights and by the Human Rights Council since March 2006 to address issues of concern in all parts of the world. Although their mandates vary, they usually monitor, examine and report publicly on human rights situations in either specific countries or on major thematic human rights issues worldwide.

(CCPR/CO/78/PRT).

²³ See, for instance, “Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine” (CERD/C/UKR/CO/18).

²⁴ See, for example, “Concluding observations of the Committee on the Rights of the Child: Colombia” (CRC/C/15/Add.137).

²⁵ See, for instance, “Conclusions and recommendations of the Committee against Torture: Greece” (CAT/C/CR/33/2).

²⁶ See Committee against Torture, decision on communication No. 161/2000, *Hajrizi Dzemajl et al. v. Serbia and Montenegro*, 21 November 2002 (A/58/44).

In its resolution 2000/9, the Commission created the mandate 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, which was renewed by Human Rights Council resolution 6/27. Miloon Kothari was appointed as the first Special Rapporteur in 2000. His successor, Raquel Rolnik, was appointed in 2008 by the Human Rights Council.

Mandate of the Special Rapporteur on the right to adequate housing

- Promote the full realization of adequate housing as a component of the right to an adequate standard of living
- Identify best practices as well as challenges and obstacles to the full realization of the right to adequate housing, and identify protection gaps in this regard
- Give particular emphasis to practical solutions with regard to the implementation of the rights relevant to the mandate
- Apply a gender perspective, including through the identification of gender-specific vulnerabilities in relation to the right to adequate housing and land
- Facilitate the provision of technical assistance

The Special Rapporteur's *methods of work* include conducting country missions; investigating issues of concern; reviewing communications from individuals or groups alleging violations of the right to adequate housing and intervening, when appropriate, with Governments in connection with alleged violations; and reporting annually to the General Assembly and the Human Rights Council.

The work of the Special Rapporteur has focused so far on: the legal status and content of the right to adequate housing; homelessness; forced evictions; globalization and the right to adequate housing; discrimination and the enjoyment of the right to adequate housing; the development of indicators; access to water and sanitation as elements of the enjoyment of the right to adequate housing; and women's right to adequate housing.

The Special Rapporteur receives information from individuals and groups, and responds to them as appropriate. She may be contacted at OHCHR:

United Nations Special Rapporteur on adequate housing

OHCHR-UNOG

8–14 avenue de la Paix

CH–1211 Geneva 10

Switzerland

E-mail: urgent-action@ohchr.org

The right to adequate housing is also a concern of many other special procedures and several have taken up the issue in relation to their specific mandates.²⁷

The Advisory Group on Forced Evictions

In 2004, UN-Habitat established the Advisory Group on Forced Evictions to monitor unlawful evictions and identify and promote alternatives such as in situ upgrading and negotiated resettlement. The Advisory Group reports to the Executive Director of UN-Habitat. It includes experts from intergovernmental organizations, local authorities, central Governments, civil society and professionals in developed and developing countries.

Since its creation, the Advisory Group has been conducting fact-finding missions to Accra, Buenos Aires, Curitiba (Brazil), Istanbul (Turkey), New Orleans (United States of America), Port Harcourt (Nigeria), Rome and Santo Domingo. In its first two biennial reports, *Forced Evictions – Towards Solutions?*, published in 2005 and 2007, the Advisory Group documented cases of imminent or ongoing forced evictions in several countries and presented alternative approaches.²⁸

²⁷ For a list of all special procedures, and information on their mandates and contact details, see <http://www.ohchr.org>

²⁸ Both reports are available at: <http://www.unhabitat.org/unhrp>

ANNEX

SELECTED INTERNATIONAL INSTRUMENTS AND OTHER DOCUMENTS RELATED TO THE RIGHT TO ADEQUATE HOUSING (IN CHRONOLOGICAL ORDER)

International treaties

Charter of the United Nations (1945)

Convention Relating to the Status of Refugees (1951)

International Covenant on Economic, Social and Cultural Rights (1966)
and its Optional Protocol (2008)

International Covenant on Civil and Political Rights (1966) and its two
Optional Protocols (1966 and 1989)

International Convention on the Elimination of All Forms of Racial
Discrimination (1965)

Convention against Torture and Other Cruel, Inhumane or Degrading
Treatment or Punishment (1984) and its Optional Protocol (2002)

ILO Convention No. 169 concerning Indigenous and Tribal Peoples in
Independent Countries (1989)

Convention on the Rights of the Child (1989) and its two Optional
Protocols (2000)

International Convention on the Protection of the Rights of All Migrant
Workers and Members of Their Families (1990)

Convention on the Elimination of All Forms of Discrimination against
Women (1979) and its Optional Protocol (1999)

Convention on the Rights of Persons with Disabilities (2006) and its
Optional Protocol (2006)

Regional treaties

African Charter on Human and Peoples' Rights (1981)

African Charter on the Rights and Welfare of the Child (1990)

European Convention for the Protection of Human Rights and Fundamental
Freedoms (1950)

European Social Charter (1961)

European Convention on the Legal Status of Migrant Workers (1977)

Revised European Social Charter (1996)

American Convention on Human Rights (1969)

International declarations and other instruments

Universal Declaration of Human Rights (1948)

United Nations Principles for Old Persons, General Assembly resolution 46/91 (1991)

Guiding Principles on Internal Displacement (1998)

ILO Recommendation No. 115 concerning Workers' Housing (1961)

United Nations Declaration on the Rights of Indigenous Peoples, General Assembly resolution 61/295 (2007)

Guidance by expert human rights mechanisms

Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations (E/1991/23)

Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing (E/1992/23)

Committee on Economic, Social and Cultural Rights, general comment No. 5 (1994) on persons with disabilities (E/1995/22)

Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions (E/1998/22, annex IV)

Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water (E/C.12/2002/11)

Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992) on violence against women (A/47/38)

Committee on the Elimination of Racial Discrimination, general recommendation No. 23 (1997) on indigenous peoples (A/52/18, annex V)

Principles on Housing and Property Restitution for Refugees and Displaced Persons (E/CN.4/Sub.2/2005/17/Add.1)

Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I)

Resolutions of the Commission on Human Rights and the Human Rights Council

Commission resolutions 2000/9, 2001/28, 2002/21, 2003/27, 2004/21 on adequate housing as a component of an adequate standard of living

Commission resolution 1993/77 on forced evictions

Commission resolutions 2000/13, 2001/34, 2002/49, 2003/22, 2004/21, 2005/25 on women's equal ownership of, access to and control over land and equal rights to own property and to adequate housing

Council resolution 6/27 on adequate housing as a component of the right to an adequate standard of living

International conference outcome documents

Istanbul Declaration on Human Settlements (1996)

Habitat Agenda (1996)

United Nations Millennium Declaration, adopted by the United Nations General Assembly "Millennium Assembly of the United Nations" (2000)

Vancouver Declaration on Human Settlements (1976)

Rio Declaration on Environment and Development and Agenda 21 of the United Nations Conference on Environment and Development (1992)

Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (1993)

Selected websites

Intergovernmental organizations

Office of the United Nations High Commissioner for Human Rights: <http://www.ohchr.org>

(This website contains general information and resources on economic, social and cultural rights, and the web pages of the human rights treaty bodies and special procedures, including the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.)

United Nations Human Settlements Programme (UN-Habitat): <http://www.unhabitat.org>

United Nations Housing Rights Programme (UNHRP): <http://www.unhabitat.org/unhrp>

Advisory Group on Forced Evictions to the Executive Director of UN-Habitat (AGFE): <http://www.unhabitat.org/unhrp>

Housing the Urban Poor (a project by the United Nations Economic and Social Commission for Asia and the Pacific): <http://www.housing-the-urban-poor.net>

Council of Europe's Commissioner for Human Rights: <http://www.coe.int/t/commissioner>

International non-governmental organizations

Amnesty International: <http://www.amnesty.org>

Asian Coalition for Housing Rights (ACHR): <http://www.achr.net>

Centre on Housing Rights and Evictions (COHRE): <http://www.cohre.org>

European Federation of National Organisations Working with the Homeless (FEANTSA): <http://www.feantsa.org>

European Roma Rights Centre (ERRC): <http://www.errc.org>

FoodFirst Information and Action Network (FIAN): <http://www.fian.org>

Habitat International Coalition (HIC): <http://www.hic-net.org>

Homeless International: <http://www.homeless-international.org>

Housing and Land Rights Network (HLRN): <http://www.hlrn.org/english/home.asp>

Human Rights Watch (HRW): <http://www.hrw.org>

International Commission of Jurists (ICJ): <http://www.icj.org>

International Federation for Human Rights (FIDH): <http://www.fidh.org>

International Network for Economic, Social and Cultural Rights (ESCRNet): <http://www.escr-net.org>

International Union of Tenants (IUT): <http://www.iut.nu>

Shack/Slum Dwellers International (SDI): www.sdinet.org

Social Watch: <http://www.socialwatch.org>

World Organisation Against Torture (OMCT): <http://www.omct.org>

Human Rights Fact Sheets:*

- No. 2 The International Bill of Human Rights (Rev.1)
- No. 3 Advisory Services and Technical Cooperation in the Field of Human Rights (Rev.1)
- No. 4 Combating Torture (Rev.1)
- No. 6 Enforced or Involuntary Disappearances (Rev.3)
- No. 7 Complaint Procedures (Rev.1)
- No. 9 The Rights of Indigenous Peoples (Rev.1)
- No. 10 The Rights of the Child (Rev.1)
- No. 11 Extrajudicial, Summary or Arbitrary Executions (Rev.1)
- No. 12 The Committee on the Elimination of Racial Discrimination
- No. 13 International Humanitarian Law and Human Rights
- No. 14 Contemporary Forms of Slavery
- No. 15 Civil and Political Rights: The Human Rights Committee (Rev.1)
- No. 16 The Committee on Economic, Social and Cultural Rights (Rev.1)
- No. 17 The Committee against Torture
- No. 18 Minority Rights (Rev.1)
- No. 19 National Institutions for the Promotion and Protection of Human Rights
- No. 20 Human Rights and Refugees
- No. 21 The Right to Adequate Housing (Rev.1)
- No. 22 Discrimination against Women: The Convention and the Committee
- No. 23 Harmful Traditional Practices Affecting the Health of Women and Children
- No. 24 The International Convention on Migrant Workers and its Committee (Rev.1)
- No. 25 Forced Evictions and Human Rights
- No. 26 The Working Group on Arbitrary Detention
- No. 27 Seventeen Frequently Asked Questions about United Nations Special Rapporteurs
- No. 28 The Impact of Mercenary Activities on the Right of Peoples to Self-determination
- No. 29 Human Rights Defenders: Protecting the Right to Defend Human Rights
- No. 30 The United Nations Human Rights Treaty System - An Introduction to the Core Human Rights Treaties and the Treaty Bodies
- No. 31 The Right to Health
- No. 32 Human Rights, Terrorism and Counter-terrorism
- No. 33 Frequently Asked Questions on Economic, Social and Cultural Rights

* Fact sheets Nos. 1, 5 and 8 are no longer issued. All fact sheets are available online at <http://www.ohchr.org>.

The *Human Rights Fact Sheet* series is published by the Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva. It deals with selected questions of human rights that are under active consideration or are of particular interest.

Human Rights Fact Sheets are intended to assist an ever-wider audience in better understanding basic human rights, what the United Nations is doing to promote and protect them, and the international machinery available to help realize those rights. *Human Rights Fact Sheets* are free of charge and distributed worldwide. Their reproduction in languages other than the official United Nations languages is encouraged provided that no changes are made to the contents and the Office of the United Nations High Commissioner for Human Rights in Geneva is informed by the reproducing organization and given credit as being the source of the material.

Enquiries should be addressed to:

Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14, Avenue de la Paix
CH-1211 Geneva 10
Switzerland

New York Office:
Office of the United Nations High Commissioner for Human Rights
United Nations
New York, NY 10017
United States of America

Human Rights

