



EFFECTIVE HUMAN RIGHTS- BASED HOUSING STRATEGIES

SUBMISSION TO THE UN 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

**AMNESTY
INTERNATIONAL**



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First published in 2017

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: IOR 40/7475/2017

Original language: English

amnesty.org

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1. BACKGROUND

Amnesty International welcomes the initiative by the United Nations (UN) 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 (hereafter the Special Rapporteur on adequate housing) to prepare guidance for states on designing and implementing effective human rights-based housing strategies to realize the right to housing and to fulfil commitments made under the 2030 Agenda for Sustainable Development and the New Urban Agenda. Amnesty International recognizes that the success of the 2030 Agenda and the New Urban Agenda lies in their implementation at the national and the local level. As governments, financial institutions, donors, philanthropic entities and the private sector align their investments towards the SDGs and the New Urban Agenda, there needs to be an equally strong alignment between resources, social policies and human rights obligations.

Amnesty International provides the following submission in response to the request for contributions from the UN Special Rapporteur on adequate housing towards preparation of the above mentioned guidance.¹ The submission draws on Amnesty International's research and advocacy on the right to adequate housing in several countries around the world. It elaborates some fundamental issues that governments must address in order to ensure that they comply with their commitment to respect, protect and fulfil the right to adequate housing. The submission also outlines key requirements necessary to ensure that housing strategies comply with international human rights law.

2. LACK OF LEGAL SECURITY OF TENURE

Worldwide, it is estimated that over a billion people live in slums or informal settlements.² In most cases, people living in slums lack security of tenure which increases their vulnerability to forced evictions. The failure of governments to provide every person with a minimum degree of security of tenure is one of the main barriers to achieving the right to adequate housing for all. Any human rights-based housing strategy must therefore prioritize putting in place a legal framework that confers, at the very least, a minimum degree of security of tenure in order to protect people from forced evictions, harassment and threats.

Given the huge financial and human cost of resettlement, Amnesty International has consistently called for, as far as possible, the provision of security of tenure, in-situ. Only in exceptional circumstances and after genuine consultation with affected people and application of other safeguards should eviction and resettlement be considered as an option for achieving security of tenure.

As an example of provision of security of tenure, Amnesty International notes that in Afghanistan, many international aid workers pointed to the positive, albeit small-scale experience from Maslakh camp in Herat. Since 2014, UN-Habitat and UNHCR have worked with local authorities on a pilot project to regularise Maslakh camp as a way of granting security of tenure to the residents and to provide essential services. The project had not been completed at the time of Amnesty International's research, but it points to the possibility of providing security of tenure in-situ where residents preferred to integrate locally rather than return to their places of origin.³

However, in most other cases Amnesty International has found that governments have done little to meet their immediate human rights obligation of providing security of tenure and in some cases made it very difficult for people to obtain it. For example, in Lagos, Nigeria, security of tenure remains elusive to the vast majority of the estimated 70% of people in Lagos living in slums or informal settlements. Lagos land law experts told Amnesty International that the process of obtaining a minimum degree of security of tenure is cumbersome, lengthy, fraught with corruption and too costly for the urban poor.⁴

¹ This is in addition to the submission to the UN Special Rapporteur (Index number: IOR 30/7341/2017) focussing on Mongolia.

² UN Habitat and APCO, 'Slum Almanac 2015/2016: Tracking Improvement in the Lives of Slum Dwellers', October 2016 <https://unhabitat.org/slum-almanac-2015-2016/>

³ For details, see Amnesty International, 'My Children Will Die This Winter: Afghanistan's Broken Promise to the Displaced', 2016, Index number: ASA 11/4017/2016

⁴ For details, see Amnesty International, 'The Human Cost of a Mega City: Forced Evictions of the Urban Poor in Lagos, Nigeria', 2017 Index number: AFR 44/7389/2017

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3. FORCED EVICTIONS

The international community has long recognised forced evictions as an area of serious concern and a serious violation of human rights.⁵ Amnesty International has documented forced evictions in both developing and developed countries.⁶ While the causes may vary - urban renewal programmes, rising real estate prices, increased security, health and safety concerns or infrastructure development projects - it is often some of the most disadvantaged individuals and groups who are forcibly evicted.

Some of the cases of forced evictions documented by Amnesty International include those where they have taken place to make way for urban and infrastructure development. For example, in Mombasa, Kenya, scores of families living in Jomvu, an informal settlement along the A 109 highway in Mombasa, Kenya, were forcibly evicted in May 2015 as their homes were located on land ear-marked for a highway expansion project. The project is part of Kenya's 'Vision 2030', an ambitious blueprint for long-term national development that aims to transform Kenya into a middle-income country. The forced evictions in Jomvu adversely impacted the lives and livelihoods of all those whose homes were demolished, many of whom belonged to some of the most disadvantaged sections of society. It also created a climate of fear and uncertainty for others who lived in the project area.⁷

Amnesty International's most recent report entitled 'The Human Cost of a Mega City', on forced evictions in Lagos, Nigeria documents seven forced evictions of more than 30,000 residents of the city between March 2016 and April 2017. The forced evictions and related attacks resulted in at least 11 deaths, raising concerns of unlawful killings. Amnesty International also documented, 17 cases of people who disappeared during the forced evictions, massive destruction of property, homelessness, loss of livelihoods, separation of families, and children deprived of access to schools. Official reasons for carrying out these forced evictions, included claims to save the environment, and preventing crime.⁸

In order to fulfil their human rights commitments and achieve a safe and inclusive environment as highlighted in the Sustainable Development Goals and the New Urban Agenda, governments must both prohibit and not carry out or facilitate forced evictions with immediate effect. In so doing they must ensure that all development projects are human rights compliant and follow and apply appropriate international law and standards, including the Basic Principles and Guidelines for Development Based Evictions and Displacement. One suitable method of ensuring this is for the Guidelines and Principles to be integrated into urban development policies and planning.

4. HOMELESSNESS

As noted by the UN Special Rapporteur on Adequate Housing, homelessness is an extreme violation of the right to adequate housing. Homelessness exists in developed and developing countries and as noted in the New Urban Agenda, must be prevented and eliminated through the adoption of inclusive and participatory housing strategies.

Amnesty International notes that homelessness, however, has increased in the aftermath of the economic crisis. In the UK, for example, the number of rough sleepers has more than doubled since 2010 amid government's cuts in welfare and social housing programmes. A recent [survey](#) by the Refugee Council has shown that people granted refugee status are particularly at risk of becoming homeless and destitute as there are no programmes to support their transition from receiving asylum support to living independently.⁹

In Albania, Amnesty International found that that young people leaving state social care do not receive the support they need to make the transition to independent life. Many leave school without the skills and qualifications that would enable them to find the means to live independently. With no family to turn to, and often only insecure and ill-paid employment, they may have little choice but to live in the grim conditions of

⁵ UN Commission on Human Rights Resolution 1993/77, para 1

⁶ Amnesty International has documented cases of forced evictions in several countries including in Afghanistan, Angola, Brazil, Cambodia, Chad, China, Egypt, France, Ghana, Haiti, Italy, Kenya, Nigeria, Romania, Serbia and Zimbabwe

⁷ For details, see Amnesty International, 'Driven Out for Development, Forced Evictions in Mombasa, Kenya', 2015 Index number: AFR 32/2467/2015

⁸ For details, see Amnesty International, 'The Human Cost of a Mega City: Forced Evictions of the Urban Poor in Lagos, Nigeria', 2017 Index number: AFR 44/7389/2017

⁹ See Amnesty International, 'Governments are criminalizing homeless people to distract from their own failures', 2 October 2017

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semi-abandoned school buildings – the state’s only “solution” to their housing needs. Each year they are joined by other young people who on leaving school have found themselves similarly homeless.¹⁰ In this case, Amnesty International called on the government to adopt comprehensive legislation dealing with leaving social care and aftercare, in accordance with international standards.

5. LACK OF ACCESS TO ESSENTIAL SERVICES

With the growth of informal settlements in urban areas, the lack of access to essential services including minimum essential and safe levels of water and sanitation is a growing concern in several a majority of countries around the world.

In Nairobi, Amnesty International found that women and girls living in these informal settlements are particularly affected by lack of adequate access to sanitation facilities for toilets and bathing. Many women have to walk more than 300m from their homes to reach the available latrines. This is unsafe for them, especially at night. Poor sanitary conditions led to greater levels of disease such a cholera, in turn requiring them to incur high health care costs at the expense of other basic needs. A high number of women and girls experienced rape and other forms of violence as a direct result of their attempt to find or walk to a toilet or latrine some distance away from their houses.¹¹ Amnesty International’s recommendations to the government included enforcing legislation requiring landlords to construct latrines and bathrooms in the vicinity of their properties, and providing financial assistance to property owners who were unable to meet construction costs.

In Slovenia, continuing discrimination against the Romani people condemned many of them to live in housing without basic public services. Some municipalities had refused to provide public services to Roma because their settlements are ‘irregular’ - despite the fact that families have been living there for decades. As a result, some Roma had to travel long distances with jerry cans to get water from petrol stations, cemeteries or polluted streams. Amnesty International called on the government of Slovenia to allocate additional and adequate resources to municipalities to support them in regularizing informal settlements, and providing access to services and infrastructure within settlements. In November 2016, Slovenia amended its constitution to guarantee the right to water to all. While this is certainly a welcome development, the extent of its implementation vis-à-vis Roma communities remains to be seen.¹²

6. GUARANTEEING PARTICIPATION, EQUALITY AND NON-DISCRIMINATION

In line with the principle, ‘leaving no one behind’ in the Sustainable Development Goals, Amnesty International advocates for national and local governments to ensure that housing strategies, plans and policies guarantee participation, equality and non-discrimination in all phases of planning and implementation. In order to achieve this, housing strategies must seek out and commit to reach the most disadvantaged, first. These include people living in poverty, social, religious, ethnic and sexual minorities, persons with disabilities (of whom more than 80 per cent live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants. In most contexts, women, youth and children also rank among the disadvantaged sections of society.

Amnesty International has found that through acts of commission and omission, governments often fail to ensure that their policies related to housing are accessible to those who are most vulnerable to human rights violations. For example, the government of Nepal failed to reach the most disadvantaged sections in its post-earthquake reconstruction efforts. It adopted an “owner-driven” housing reconstruction programme, to address the destruction caused by the 2015 earthquakes. This programme requires proof of land ownership

¹⁰ See Amnesty International, ‘Young people leaving social care need dignity and housing – an appeal on National Orphans Day’, 20 May 2010, Index number: EUR 11/006/2010

¹¹ For details, see Amnesty International, ‘Insecurity and Indignity: Women’s Experiences in the Slums of Nairobi, Kenya’, 2010, Index number: AFR 32/002/2010

¹² See Amnesty International, ‘Constitutional right to water “must flow down to” Roma communities’ 17 November 2016

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as a condition to qualify for a rebuilding grant scheme. As a result, tens of thousands of people were left out of reconstruction, many of whom are from disadvantaged groups that did not have land ownership certificates. Later, the government took some limited steps such as land registration initiatives for the landless. It remains to be seen whether recent government policy changes will be able to remedy the situation for the most disadvantaged.¹³

In Rome, Italy, Amnesty International found that Roma living in camps are effectively excluded from social housing. Despite their numerous and repeated applications, only a handful of Romani families were recorded as living in some of the 50,000 social housing properties. The prioritization of criteria, within the social housing allocation system, meant that the Roma were effectively barred from equal access to social housing. Amnesty International's recommendations to the Italian authorities included ensuring effective access to social housing by all, including Roma, and that the allocation of social housing is based on principles of non-discrimination, fairness, transparency, accountability and participation.¹⁴

These and other cases of exclusion of certain sections of society highlight the lack of effective participation of affected people and the failure of governments to ensure that the rights of the most disadvantaged are upheld.

7. SOME KEY MEASURES FOR ACHIEVING A HUMAN-RIGHTS COMPLIANT HOUSING STRATEGY

Key components of a human rights compliant housing strategy that would uphold commitments made by governments as part of the Sustainable Development Goals and the New Urban Agenda must include the concrete measures that:

7.1 ADEQUATE HOUSING

- Prioritize a basic level of housing for everyone, especially homeless people and set out time-limited goals to progressively improve housing conditions.
- Prioritize provision of services, including minimum essential levels of safe water and sanitation.
- Ensure that the costs of housing and materials to build homes are made affordable through the provision of subsidies and soft loans where applicable, particularly for the poorest people.

7.2 LEGISLATIVE AND POLICY

- Recognize and protect the right to adequate housing as a legal right, enforceable by the courts.
- Guarantee every person a minimum level of security of tenure and protection against forced evictions.
- Adopt and implement of a law which prohibits forced evictions and which sets out safeguards that must be complied with prior to any eviction.
- Review and modify rules and regulations on housing construction, planning and zoning to promote housing for all and try and make it easier rather than harder for people living in poverty to build or maintain their homes.

¹³ For details, see Amnesty International, 'Building Inequality: The Failure of the Nepali Government to Protect the Marginalised in Post-Earthquake Reconstruction Efforts', 25 April 2017, Index number: ASA 31/6071/2017

¹⁴ For details, see Amnesty International, 'Double Standards: Italy's Housing Policies Discriminate Against Roma' 2013, Index number: EUR 30/008/2013

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- Introduce measures to ensure affordability of housing, such as regulations on rent levels and other housing-related costs, and ensure that increases in rents, mortgages and other forms of housing finance do not threaten people's ability to satisfy other needs.
- Introduce standards to ensure housing is "adequate", setting out requirements of habitability, location and availability of services, facilities and infrastructure, in line with the international standards.

7.3 INCLUSION AND PARTICIPATION

- Prohibit and address discrimination, including racial segregation and discrimination against women in housing.
- Ensure that all program and any allocated resources linked to housing prioritize those who are worst off.
- Ensure consultation and participation of people, particularly those belonging to disadvantaged groups on decisions that will affect their lives and during the formulation of a housing strategy.
- Ensure that public participation in the design and implementation of the housing strategy is preceded by the provision of all relevant information necessary for effective participation. This information must be in a form and language/s that are accessible to all including the most disadvantaged.

7.4 ASSESSMENTS, MONITORING AND REMEDY

- Establish effective mechanisms to assess and monitor the housing situation in the country. These mechanisms should identify people who lack a minimum degree of security of tenure, the homeless, households headed by children, people who live in inadequate housing, migrants, refugees and other groups who face the greatest barriers in realizing their right to adequate housing. Governments must act on this assessment and ensure that the rights of these groups are respected, protected and fulfilled in the course of the designing and implementing any housing strategy.
- Ensure that any urban renewal, infrastructure and housing construction projects are allowed to proceed only after a detailed environmental and human rights impact assessment, including impacts of individuals and families resident in the project area.
- Set-up effective mechanisms for monitoring all authorities, at national and local levels, to ensure that they act consistently with the state's international human rights obligations.
- Provide for effective remedies and reparations to all people, whose right to adequate housing has been violated, including through recourse to the courts where necessary.

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CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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