

VOLUME I

HUMAN RIGHTS IN CITIES HANDBOOK SERIES

The Human Rights-Based Approach
to Housing and Slum Upgrading



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HUMAN RIGHTS IN CITIES HANDBOOK SERIES VOLUME I
THE HUMAN RIGHTS BASED APPROACH TO HOUSING AND SLUM UPGRADING

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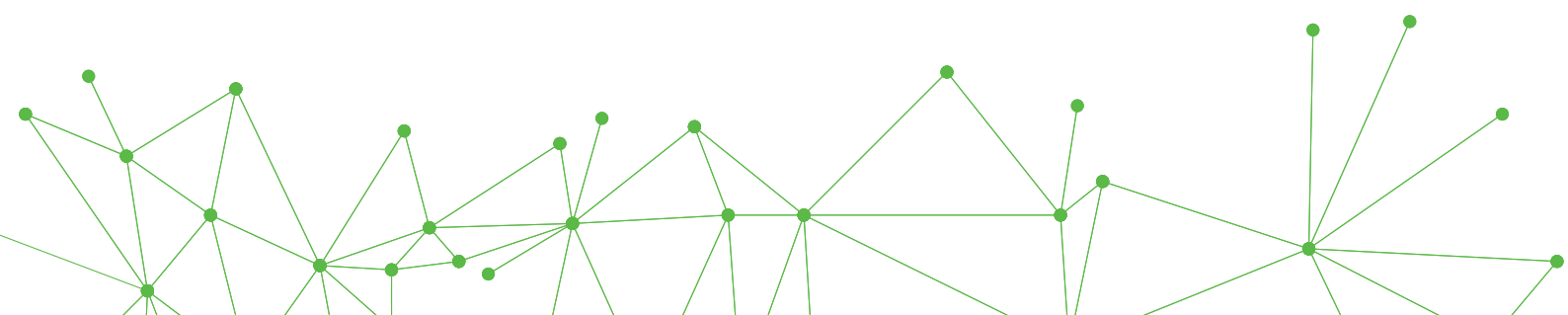
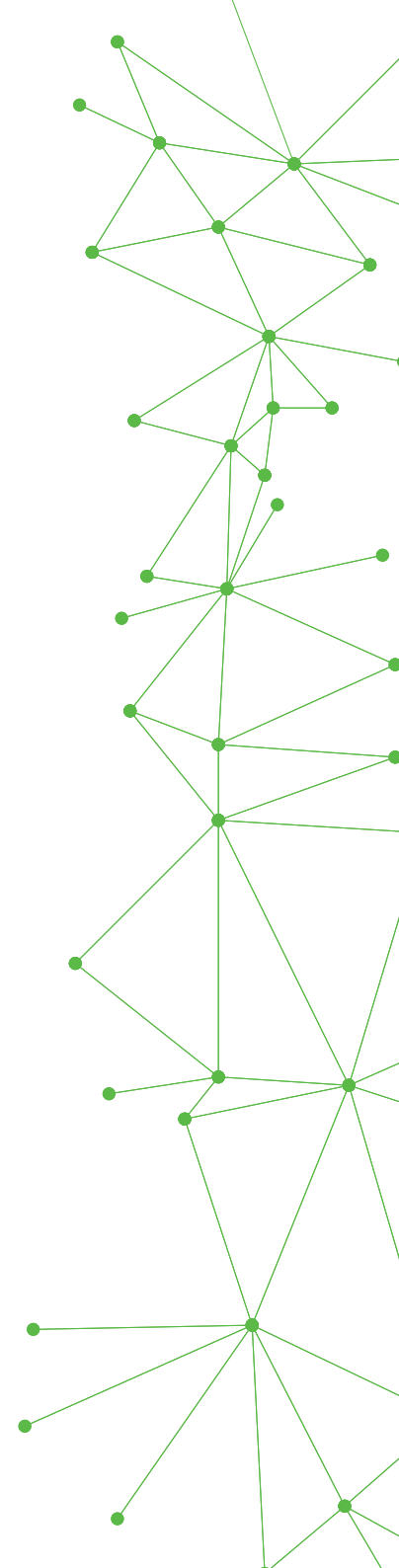
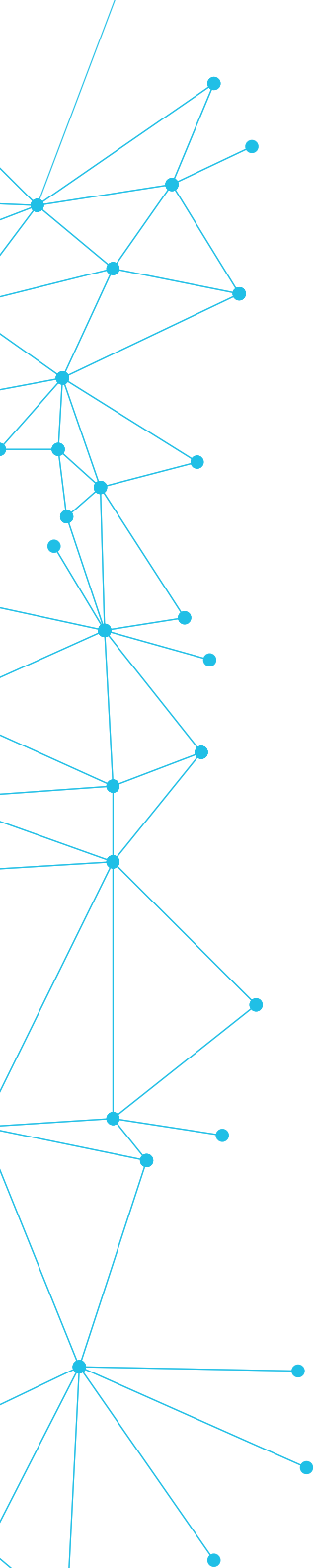


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LIST OF ABBREVIATIONS

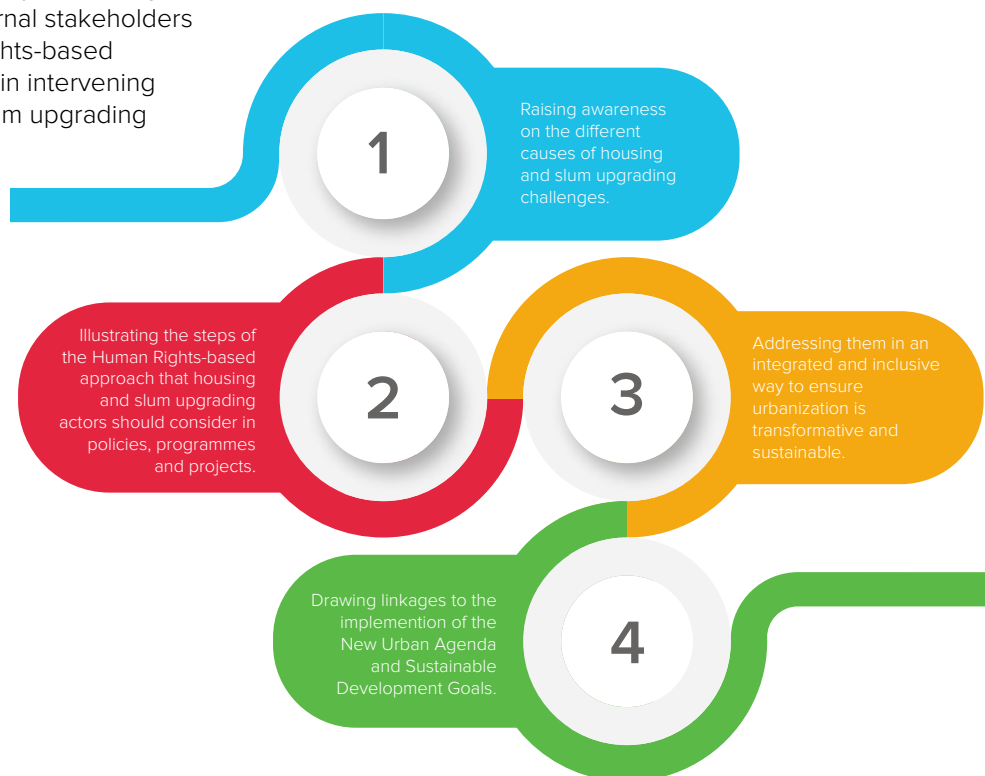
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CMFs	Community Managed Funds
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CWSUS	City-wide slum upgrading strategy
GHS	Global Housing Strategy
GLTN	Global Land Tool Network
H@C	Housing at the Centre
HABITAT III	United Nations Conference on Housing and Sustainable Urban Development
HRBA	Human Rights-Based Approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
M&E	Monitoring and Evaluation
NCWCOPC	National Coalition of World Cup and Olympics Popular Committees
NUA	New Urban Agenda
PPR	Practice of Rights Project
PSUP	Participatory Slum Upgrading Programme
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN-HABITAT	United Nations Human Settlements Programme
UPR	Universal Periodic Review

EXECUTIVE SUMMARY

This handbook is a guide for housing and slum upgrading practitioners in using the human rights-based approach in their interventions.

The realization of the human right to adequate housing of all urban residents is a prerequisite for inclusive and sustainable urban centres for all. Yet, almost 1 billion people of the world's urban population live in inadequate housing conditions in slums and at least 2 million people in the world are forcibly evicted every year, while millions are threatened with forced evictions. Violation of the right to adequate housing leads to spatial fragmentation and increases the risk of a deficit of also other human rights, by groups who are discriminated, marginalized and excluded.

The purpose of this handbook is to improve upon this by increasing the capacities of external stakeholders on the Human Rights-based Approach (HRBA) in intervening in housing and slum upgrading through:



The Handbook also advocates for the use of the HRBA in preventive measures (such as the provision of new housing stock and policy) as well as curative interventions (such as the upgrading of slums and informal settlements) in the planning and design, implementation, and the monitoring and evaluation phases. As such, it prioritizes re-focussing urban development priorities to those in vulnerable situations to ensure that they benefit from and are involved in strategies for combatting inequalities and segregation in towns and cities.

HRBA in Practice

The following questions can be used to guide you through the application of the Human Rights Based Approach to your projects.



FIGURE 1. EXAMPLE OF HRBA IN PRACTICE IN THE PARTICIPATORY SLUM UPGRADING PROGRAM (PSUP)

Human Rights Analysis

- The right to adequate housing (security of tenure, availability of services, habitability, affordability, physical accessibility cultural adequacy)
- The right to water
- The right to participation

Role Pattern Analysis

- More nuanced analysis of vulnerable groups
- More detailed understanding of vulnerable groups (vulnerability inside the vulnerability);
- Improved analysis of community links and networks, including support groups;
- Finding strategic entry points for bringing change embedded in PSUP planning and results.



Causality Analysis

- Immediate problem: Poor standard of living in informal housing communities
- Underlying: Poor housing supply, few employment opportunities
- Root: unstable national economy, global recession, corruption
- Women unable to participate in local leadership
- Children more vulnerable to disease
- Ethnic minorities not supported by local community

Capacity Gap Analysis

- Further entitlement of stakeholders;
- Strengthening the ways in which PSUP passes the rights' message to both duty-bearers and right-holders;
- Identifying local partnerships for HR messaging, capacity building and monitoring;
- To add national HR bodies to PSUP Country Teams and build capacities of HR and Gender Focal Points;

What you will find in the handbook?



Why should you use this handbook?

Everyone working in urban development, whether through devising policies or procedures, planning and developing projects and programmes or delivering services will benefit from this handbook. They must ensure that their interventions programming focuses on leaving no one behind in the analysis and implementation. The Human Rights-based approach highlighted in this handbook adds value by prioritizing the interests of the most marginalized in society, and strengthening capacities of decision-makers, development actors and urban residents to achieve sustainable and inclusive results for housing and slum upgrading interventions on the long-term.

After reading this, we hope that you will feel confident in mainstreaming human rights in your day-to-day work, whether you deal directly with policy interventions, project management and development, or planning.

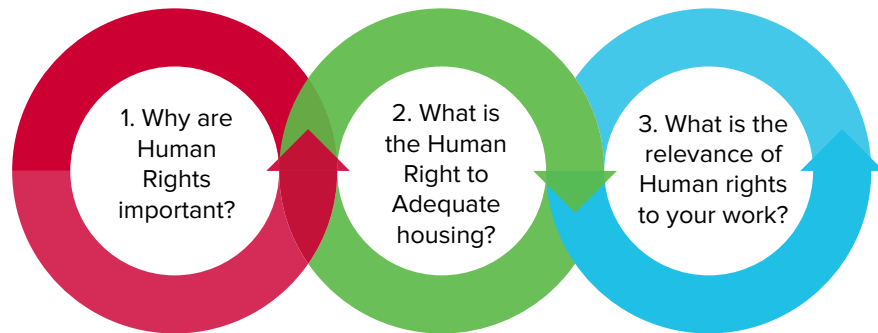


Escolas de comuna 13 take residents up into a hillside community in Medellín, Colombia © Julius Mwelu/UN-Habitat

1. A FUNDAMENTAL UNDERSTANDING

In order to successfully apply a human rights-based approach to housing and slum upgrading, first, there needs to be a basic understanding of key concepts, key legal instruments and the relevance of these to your work.

The questions that will be answered in this chapter are:



WHY ARE HUMAN RIGHTS IMPORTANT?

Human rights are important as they set the minimum standards that are essential for people to live in freedom, equality and dignity. They give everyone the freedom of choice and expression and the rights to basic needs necessary for their full development and enjoyment of their rights, including education, water, sanitation, food, health, and housing. Human rights also protect against their abuse by people or entities that are more powerful. Furthermore, human rights inform the relationship that exists between individuals and their governments, distinguishing between every human being and governmental and non-governmental actors obligated to respect, protect, and fulfil these rights.

Grounded in international law, fulfilling human rights is legally binding for states upon ratification of human rights instruments. As such, upon ratification of a human rights treaty, the state, government and any other entity acting on behalf of the government is obligated to respect, protect, and fulfil the rights enshrined in the treaty. This includes preventing human rights violations and ensuring the full enjoyment of human rights.

WHAT IS THE HUMAN RIGHT TO ADEQUATE HOUSING?

The human right to adequate housing is recognized in international human rights law as component of the right to an adequate standard of living, enshrined in the Universal Declaration of Human Rights (UDHR, adopted in 1948) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, adopted in 1966). It is also enshrined in other UN treaties' provisions of which all states have ratified at least one.¹

FIGURE 2. HUMAN RIGHTS INSTRUMENTS CODIFYING THE RIGHT TO ADEQUATE HOUSING²



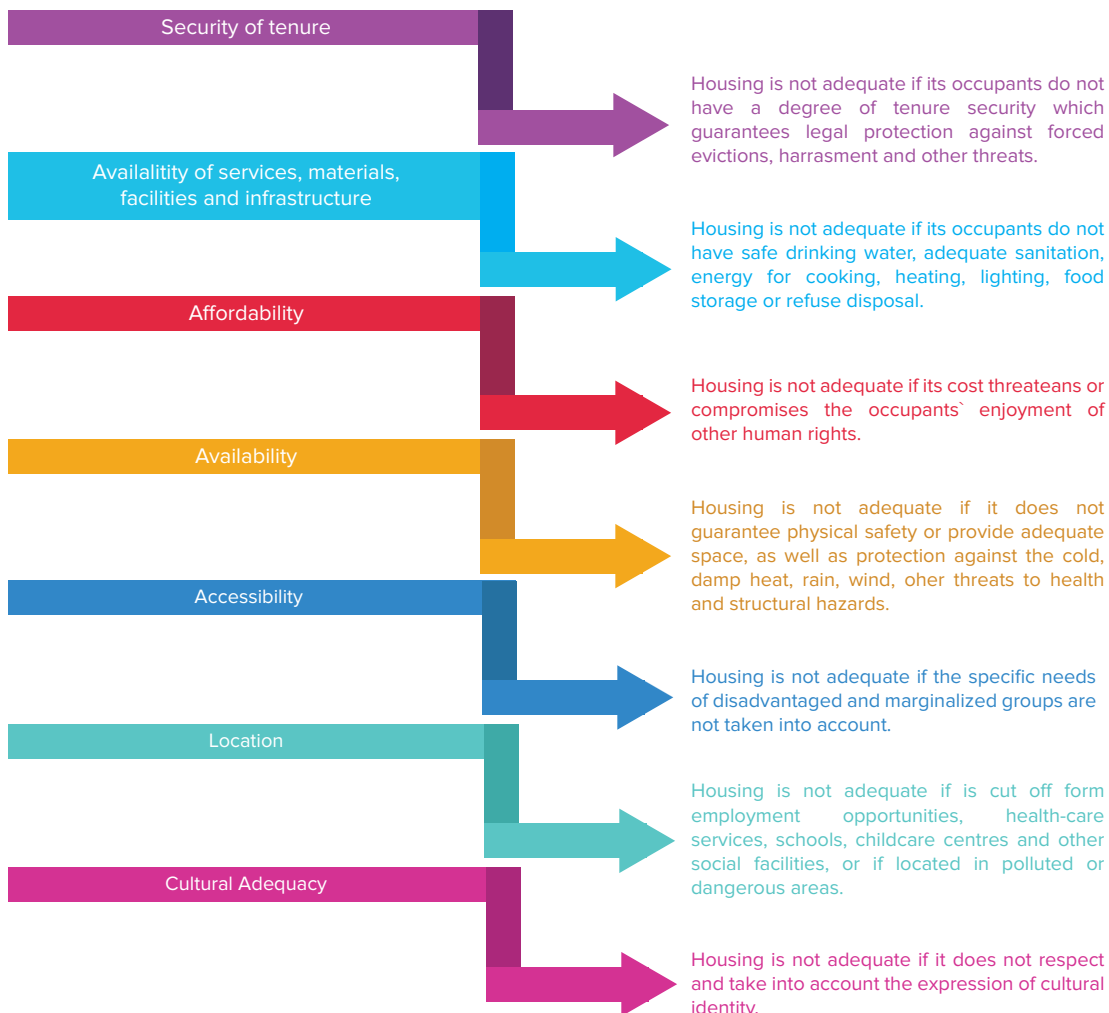
¹ http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

² Read more at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

What constitutes adequate housing?

Adequate housing entails more than four walls and a roof. In order for housing to be adequate, it must, at a minimum, meet the following criteria:

FIGURE 3. MINIMUM CRITERIA TO BE MET FOR HOUSING TO BE ADEQUATE³



³ OHCHR/UN HABITAT FACT SHEET 21

Additionally, the general Comments 4 and 7 of the Committee on Economic, Social and Cultural Rights (CESCR) expand on the characteristics of the right to adequate housing to include privacy, protection against forced evictions, and freedom of movement amongst other things.

TABLE 1. THE CESCR CLARIFICATIONS ON THE RIGHT TO ADEQUATE HOUSING AND FORCED EVICTIONS⁴

The right to adequate housing includes these freedoms:	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 includes these entitlements:	<ul style="list-style-type: none"> • Security of tenure; • Housing, land and property restitution; • Equal and non-discriminatory access to adequate housing; and • Participation in housing-related decision-making at the national and community levels.
The right to adequate housing also entails protection against forced evictions:	Forced evictions are defined as the permanent or temporary removal against the 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.

Why is adequate housing relevant to human rights?






Human rights are **interdependent**, meaning that the realization of each human right contributes to the realization of a person's human dignity through the satisfaction of her or his developmental, physical, psychological, and spiritual needs. They are also **interrelated** as the fulfilment of one right often depends, wholly or in part, upon the fulfilment of other rights.

Adequate housing has many implications on the enjoyment of human rights or lack thereof. Thus, realizing the human right to adequate housing depends, wholly or in part, on the fulfilment of other rights, such as the right to an adequate standard of living, the rights to water and sanitation, the right to health, the right to food, the right to education, freedom of expression, the right to hold property, the right to be free from arbitrary interference with one's home, privacy and family, and

⁴ Refer to The Right to Adequate Housing, Fact Sheet No. 21 (Rev. 1) (OHCHR & UN-Habitat)

the right to work. Therefore, policy-makers, programme/project managers and other development actors should adopt a holistic approach since one intervention can contribute to the realization of a variety of human rights.

FIGURE 4. HUMAN RIGHTS LINKED TO THE RIGHT TO ADEQUATE HOUSING

	RIGHT TO WATER	For housing to be adequate according to international human rights law, there needs to be availability of services such as water and sanitation
	RIGHT TO HEALTH	For housing to be adequate, it is also required that it is protected from threats to health
	RIGHT TO FOOD	When the cost of housing is too high, people may have to reduce their food bill. Additionally, the right to food cannot be realized if people lack access to safe drinking water for drinking and food preparation
	RIGHT TO EDUCATION	Enjoyment of the right to adequate housing can affect the right to education if housing conditions seriously undermine the capacity to study, or if housing is located out of reach from schools
	RIGHT TO EXPRESSION	The enjoyment of the right to adequate housing may in this way influence freedom of expression. For instance, in some States it may be required to have a permanent address in order to be able to register for voting
	RIGHT TO HOLD PROPERTY	One of the seven components of the right to adequate housing is security of tenure, which is relevant for the right to hold property and national land rights
	RIGHT TO WORK	Location of housing can affect people's chances to access livelihood opportunities
	FREEDOM FROM ARBITRARY INTERFERENCE	The right to adequate housing entails the right to not be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence

WHAT IS THE RELEVANCE OF THIS TO YOUR WORK?

UN-Habitat is committed to the realization of the right to adequate housing through HRBA and by taking into account human rights considerations in all parts of its work. By placing ‘Housing at the Centre’ of urban interventions, UN-Habitat acknowledges the added value of HRBA and a people-centred approach to urbanization and housing in cities. Its Global Housing Strategy (GHS) and Participatory Slum Upgrading Programme (PSUP) are human rights-based with emphasis on capacity-building and participation.

Under its programmatic framework, UN-Habitat aims to support member states to formulate and implement national housing policies, strategies and programmes toward the enjoyment of adequate, sustainable, and inclusive housing, which includes slum upgrading and slum prevention. Prioritizing human rights will lead to the prioritization of:

- Groups in vulnerable situations in the urbanization processes, as emphasized in the 2030 Agenda for Sustainable Development to leave no one behind and reach the furthest behind first;
- Structural causes of inequalities and discrimination in urban contexts through an analytic, people-centred framework, with the goal that human rights should be realized for all urban residents;
- The utilization of tools for urban development where everyone’s human rights are realized and respected and the full potential of all urban areas and its residents, including slum residents, is harnessed; and
- Interventions that are integrated, sustainable and inclusive through incorporating broad stakeholder participation at all levels

Sustainable Development Goals

In September 2015, the UN Member States adopted the “Transforming Our World: The 2030 Agenda for Sustainable Development”, with 17 global Sustainable Development Goals (SDGs) and 169 corresponding targets. Enshrined in the 2030 Agenda are the pledges to “leave no one behind” and “reach the furthest behind first”,⁵ along with the commitment to ensure that everyone is benefitting from the advances, including people who are experiencing marginalization, discrimination and exclusion. It emphasizes the importance of disaggregating data as key to achieving this.



⁵ Transforming Our World: The 2030 Agenda for Sustainable Development (2015), para. 4.

11 SUSTAINABLE CITIES AND COMMUNITIES



Make cities and human settlements inclusive, safe, resilient and sustainable

Targets include ensuring access to housing basic services, and public transport for all; participatory planning of human settlements; safeguarding cultural and natural heritage; and strengthening resilience to disasters.

SDG 11 aims toward “making cities and human settlements inclusive, safe, resilient and sustainable.” This provides housing and slum upgrading actors with the unique opportunity to make concerted efforts toward developing human rights-based, strategic and globally aligned approaches geared to inclusive urban development. Through SDG 11, it is understood that critical elements to inclusive and sustainable urbanization include slum upgrading, the right to adequate housing, water and sanitation, gender equality, and inclusion of groups in situations of vulnerability. Further, housing and slum upgrading policies, programmes and projects relate to other SDGs on poverty, health, reduced inequalities, gender equality, clean water and sanitation, and affordable and clean energy.⁶

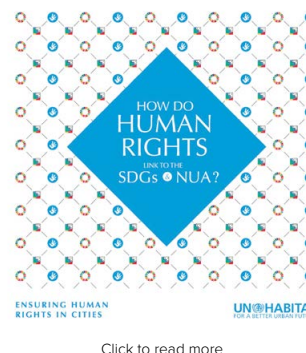
The way that HRBA addresses inequalities and discrimination, and prioritizes groups in vulnerable situations, is an important contribution to the realization of the United Nations 2030 Agenda for Sustainable Development and for leaving no one behind in the development process.

The New Urban Agenda

The New Urban Agenda (NUA), adopted in 2016 at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), is an action-oriented document that sets the global standards of achievement in sustainable urban development firmly grounded in the UDHR that focuses on the realization of human rights, including the right to adequate housing. It sets the framework for sustainable urban development globally for the coming twenty years.

One of the eight proposed guiding principles of the New Urban Agenda is the promotion of a new urbanization model that contains mechanisms and procedures which respect, protect, and promote human rights, through the Human Rights-Based Approach to urbanization.⁷

In this regard, its application requires the facilitation collaboration and cooperation with partners, stakeholders, and urban key players in the private and public sector.⁸



[Click to read more](#)

⁶ United Nations (2015), *Transforming Our World: The 2030 Agenda for Sustainable Development*

⁷ High Level Committee on Programmes (2014), *Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda*, Twenty-Eighth Session, CEB/2014/HLCP-28/CRP.5, Executive Summary and paras. k, 13 and 16.2.

⁸ <https://www2.habitat3.org/bitcache/97ced11dcecef85d41f74043195e5472836f6291?vid=588897&disposition=in-line&op=view>

UN-Habitat's Mandate

All UN actors have specific mandates on human rights. The United Nations Human Settlements Programme's (UN-Habitat) mandate is to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. It relates to many different human rights, including the right to an adequate standard of living, the right to adequate housing and its various components, the rights to water and sanitation and promoting gender equality and youth inclusion in urban areas. Furthermore, it is engaged in the areas of tenure security, mobility and energy in the urban context; this all relates to the components of the right to adequate housing and are critical in slum upgrading. Additionally, human rights mainstreaming was declared a priority issue by the Governing Council, UN-Habitat's intergovernmental decision-making body. Consequently, UN-Habitat seeks to apply human rights considerations to all parts of its work.

Housing at the Centre

In 2015, "Housing at the Centre" (H@C) approach was launched and approved by UN-Habitat's Governing Council, placing people and human rights at the centre of cities and urban development.⁹ It is recommended that urban policies, programmes, projects and other interventions consider the Housing at the Centre approach for a holistic and people-centred housing development framework with the following objectives:

FIGURE 5. OBJECTIVES OF THE HOUSING AT THE CENTRE APPROACH



⁹ Position paper on Housing at the Centre of the New Urban Agenda, UN-HABITAT, Oct. 2015

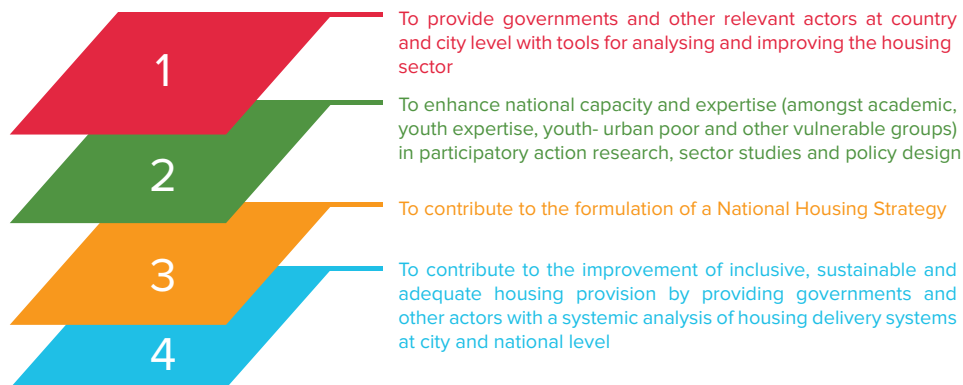
UN-Habitat's Global Housing Strategy

Since 2013, UN-Habitat implements the GHS, a collaborative global movement towards the enjoyment of the right to adequate housing for all. It advocates for mainstreaming human rights, more specifically, ensuring that policies and programs need to be geared around the strategic need of increasing the supply of affordable housing for all, especially for the most poor and vulnerable groups. This is key as, only with strong political will, sound guidelines and adequate regulations, will countries, towns and cities be able to provide adequate alternatives at the scale needed, reduce slum growth and ensure sustainable, inclusive and pro-poor urban development.

To this end, UN-Habitat uses Housing profiles to produce better knowledge and understanding of what the main challenges are and where the bottle necks lie. It uses an assessment with questions that pay particular attention to: policy and institutional frameworks; legal and regulatory frameworks; housing finance and markets; infrastructure/ basic urban services; land supply systems; and building materials, construction industry (including climate change resilience, affordable and sustainable building materials, and green construction technologies).

Up to date, UN-Habitat has produced fifteen Housing Profiles which can serve as an important starting point for a human rights-based analysis of the housing situation in the following countries: Afghanistan, Cuba, Egypt, El Salvador, Ghana, Guyana, Lesotho, Liberia, Malawi, Nepal, Senegal, Tunisia, Uganda, Viet Nam and Zambia¹⁰, all with the following objectives:

FIGURE 6. SPECIFIC OBJECTIVES OF THE HOUSING PROFILES

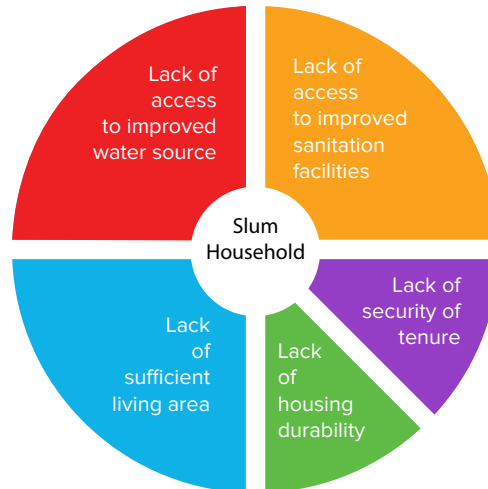


¹⁰ To access the Housing Profiles, visit the following web page: <http://unhabitat.org/urban-themes/housing-slum-upgrading/>

UN-Habitat's Participatory Slum Upgrading Programme

Slum upgrading is understood as both the process and the delivery of improved governance arrangements and living conditions that benefit and improve the lives of slum dwellers. UN-Habitat's Participatory Slum Upgrading Programme (PSUP) works towards the progressive realization of human rights for slum dwellers, and Sustainable Development Goal 11, through slum upgrading. PSUP advocates and takes action for improving the slum dwellers' standard of living through, incremental, climate compatible, human rights-based, city-wide and participatory slum upgrading and prevention.

FIGURE 7. 5 DEPRIVATIONS THAT CHARACTERIZE SLUMS¹¹



PSUP places a strong emphasis on a broad stakeholder engagement by the active participation of decision-makers, slum dwellers, and others in vulnerable situations, throughout the slum upgrading process. PSUP partners also commit to pursue participatory strategies by mainstreaming human rights. This in turn safeguards the rights of women, youth and community members in vulnerable situations, especially in the process of data collection and analysis, and when assessing overall urban needs.¹² PSUP has the following mechanisms in place to mainstream human rights:

¹¹ UN-Habitat (2015), Slum Almanac 2015/2016 – Tracking Improvement in the Lives of Slum Dwellers, p. 2.

¹² UN-Habitat (draft), PSUP. PARTICIPATORY SLUM UPGRADING PROGRAMME PHASE 1: Participatory Urban Profiling IMPLEMENTATION GUIDELINES, p. 12.

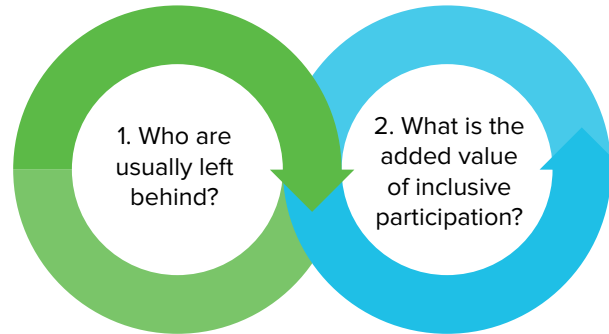
FIGURE 8. PSUP HUMAN RIGHTS MAINSTREAMING MECHANISM



2. LEAVING NO ONE BEHIND

To provide background info & challenges faced in the housing and slum upgrading context – to show the value addition HRBA could contribute & include, people who are left behind etc.

The questions that will be answered in this chapter are:



The NUA is strongly focused on women, youth, people with disabilities and other marginalized groups. In order to implement the NUA, these groups must be considered throughout the urban development process. Paragraph 13 outlines the principles and values of the NUA, and envisages cities and human settlements that: foster mitigation of and adaptation to climate change; ensure women's full and active participation; encourage urban and rural development that is people-centered, and is age-and gender-responsive; and realise the enjoyment of all human rights and fundamental freedoms.

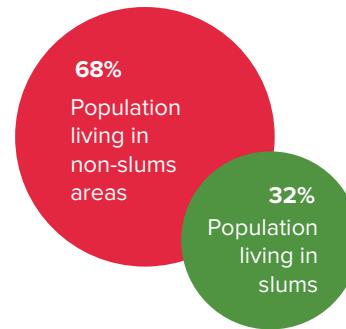


WHO ARE USUALLY LEFT BEHIND?

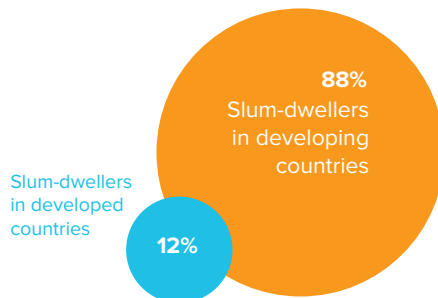
The Sustainable Development Goals (SDGs) were adopted in 2015 and are focused on the vision to 'leave no-one behind.' The goals are strongly interconnected and interdependent. UN-Habitat is the focal point for SDG 11: make cities inclusive, safe, resilient and sustainable. Given the rapid growth of urbanization, this goal is strongly linked to other goals, in particular SDG 1: end poverty in all its forms everywhere; SDG 5: achieve gender equality and empower all women and girls; SDG 10: reduce inequality within and among countries; and SDG 13: take urgent action to combat climate change and its impacts.

These two key international commitments demonstrate the vision of the international community to create socially inclusive cities. However, for this to become a reality in cities there are a large number of urban residents that must be empowered to act. Residents of cities must be allowed full participation in city management and planning; this is to ensure that their rights are respected and fulfilled. In order to achieve this, local governments are a vital stakeholder. They are responsible for urban management and planning, and for resident engagement. Local community-based organisations can be a strong link between the residents and local governments. National governments must provide legislation, policy, financing and services that encourage and allow for participation in urban development. International NGOs can play a key role in advocacy and programming to achieve this vision. This event will have the benefit of facilitating a discussion juxtaposing beneficiaries as well as the duty of governmental bodies in realizing human rights in cities but also offering practical examples to be replicated and scaled up.

WORLD'S URBAN POPULATION IN SLUM AND NON-SLUM AREAS



SLUM-DWELLERS LIVING IN DEVELOPING AND DEVELOPED COUNTRIES



Almost 1 billion people or 32 per cent of the world's urban population live in slums. 881,080,000 slum dwellers are estimated to be living in developing countries.¹³ Slums are a clear manifestation of when the right to adequate housing and other human rights are violated, or at risk of being violated. Inadequate housing conditions influence all aspects of life, such as, for example, the possibility to participate in

¹³ UN-Habitat (2003), The challenge of slums – Global Report on Human Settlements.

public life, educational opportunities, access to water and sanitation, health care and livelihood opportunities, etc. Slum-residents also experience constant discrimination and disadvantage due to the lack of recognition by governance frameworks, limited access to land and property, tenure insecurity and the threat of forced evictions, precarious livelihoods, high exposure to disease and violence, and vulnerability towards adverse impacts of climate change and natural disasters when/if living in slopes and hazardous areas.

Unfortunately, the present models of urbanization have not succeeded in creating appropriate institutional and legal structures to promote sustainable and inclusive urbanization. Poorly planned and managed urbanization diminishes the potential of leveraging economies of scale and agglomeration. This creates spatial inequalities and divided urban centres, often characterized by gated communities and slum areas, that are energy-intensive, contribute dangerously to climate change, and create economic hardship, unequal access to urban services and amenities, and an inadequate standard of living. This also leads to greater implications as people living in inadequate housing conditions tend to be those who experience vicious intergenerational cycles of discrimination, exclusion, and poverty. As a result, urban residents in vulnerable situations are systematically excluded from decision-making processes that affect them and their rights and interests are neglected. Exclusion and discrimination are contrary to legal obligations under international human rights treaties and negatively affect social and economic development.¹⁴



URBAN POOR

836 million people lived in extreme poverty in 2015.

Forced evictions tend to disproportionately affect the urban poor who find themselves unable to afford adequate housing.

Housing is an important entry point for addressing and reducing poverty. Establishing housing subsidies for those unable to obtain affordable housing should be considered.

Therefore, decision-makers and development actors must therefore make clear efforts to ensure that cities and towns are places of opportunity and well-being for all its residents, and where all urban residents enjoy the right to an adequate standard of living, the right to adequate housing, and other human rights, such as water and sanitation, the right to health, etc.¹⁵ Further to ensure equality in process and outcomes and the greatest impact possible, housing and slum upgrading

¹⁴ UNICEF, UN Women, UNDP and OHCHR (2013), *TST Issues Brief: Promoting Equality, including Social Equity*, https://sustainabledevelopment.un.org/content/documents/2406TST%20Issues%20Brief%20on%20Promoting%20Equality_FINAL.pdf, accessed on 13 August 2015, pp. 1-3.

¹⁵ UN-Habitat (2016), *The State of the World Cities Report*, pp. 4-5.

actors should address and prioritize the rights of those in the most desperate housing conditions and vulnerable situations as a matter of priority and urgency.¹⁶



CHILDREN

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 right to education, health and personal security.

Housing and slum upgrading development actors should take into account children's particular needs, for example, that children's health, educational advancement and overall well-being are deeply influenced by the quality of housing in which they live.



HOMELESS PERSONS

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 overarching structural and institutional causes of homelessness must be addressed, and the cumulative effect of domestic policies, programmes and legislation, as well as international financial and development agreements that contribute to and create homelessness.

Those who experience obstacles in enjoying their right to adequate housing vary widely from context to context; however, those who are commonly marginalized or discriminated against in development interventions include: urban poor, slum residents, people facing - or at risk of facing - forced evictions, homeless persons, children, youth, older persons, persons with disabilities, migrants, including refugees and displaced persons, , indigenous peoples, persons with HIV/AIDS, people with diverse sexual orientations, people of other status, and women. Further, groups or individuals may suffer from multiple forms of discrimination because they fall in various situations of vulnerability.

¹⁶ Special Rapporteur on the Right to Adequate Housing (2015), *Report 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*, Leilani Farha, A/70/270, para. 52.

Protection against forced evictions is another key element of the right to adequate housing and the right to be protected against arbitrary interference with the home. Yet, at least 2 million people in the world are forcibly evicted every year, while millions are threatened with forced evictions.¹⁷ Evicted persons are often left homeless, landless, and living in extreme poverty and destitution. Forced evictions commonly result in severe trauma and set back even further the lives of those that are often already marginalized or vulnerable in society.¹⁸ Further, forced evictions tend to disproportionately affect the urban poor¹⁹ who find themselves unable to afford adequate housing where they can be guaranteed security of tenure. Housing and slum upgrading actors must take all measures to prevent the occurrence of evictions and have to consider all alternatives to eviction and the many intermediate options which offer alternatives to forced eviction.



WOMEN

- When women's access to housing, land or property depends on a third person—their relatives—they become vulnerable to homelessness, poverty and destitution if this relationship comes to an end.
- Housing programmes can seek to protect women to ensure them property rights in the cases of divorce.
- The situation of women needs to be taken into account in housing and slum upgrading interventions, and housing developments can be constructed so as to take into account a gender perspective.



PERSONS LIVING WITH HIV/AIDS

- HIV prevalence in urban areas is 1.7 times higher than in rural areas, it is also higher in slums as compared to non-slum areas.
- Stigmatization and discrimination may obstruct the access to employment, housing, and treatment for persons with HIV/AIDS.
- Financial inclusion can be a critical challenge for persons with HIV/AIDS, as they can be regarded by lenders as a risk group. Solutions can include loan insurance mechanisms to help mitigate default risks, and some programs are experimenting with HIV/AIDS Risk Funds.

¹⁷ UN-Habitat (2007), *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*.

¹⁸ OHCHR and UN-Habitat (2014), *Forced Evictions*; Fact Sheet No. 25/Rev.1, p. 3.

¹⁹ OHCHR and UN-Habitat (2009), *The Right to Adequate Housing*; Fact Sheet No. 21/Rev.1, p. 5.

WHAT IS THE ADDED VALUE OF INCLUSIVE PARTICIPATION?

All stakeholders, including state and non-state actors, slum dwellers and others in situations of vulnerability, should participate in all stages of the housing and slum upgrading intervention, including planning and design, implementation, and monitoring and evaluation. Although managing effective participation and inclusion may take time and require patience, the benefits of participation and inclusion cannot be overlooked as they promote sustainable results. For instance, UN-Habitat's PSUP involves all key stakeholders, including slum dwellers themselves, throughout the process. Participation is formalized and ensured in, for example, the situational analysis, information and data collection, gap identification, action planning, and formulation of strategies. Implementation of PSUP implies full participation and accountability of the targeted communities.



Addressing affordability and security of tenure through affirmative action in Brazil

In some social and cultural contexts, housing, land and property are often understood, recorded or registered in the name of men, and women are consequently left dependent on their male relatives for tenure security.²⁰ In the absence of joint title or secure tenure, many women are expelled from their home or land upon separation or divorce.²¹

The Brazilian national social housing programme “My House, My Life” was designed to stimulate the production and acquisition of new housing units for the low- and low-middle income population. The programme adopted an affirmative approach to gender issues by implementing rules that would increase security of tenure for women. The Programme had already set priority for women in the first phase, where 80 per cent of housing contracts were signed by female-headed households. In its second phase, the protection was increased and the women rested with the property rights in the cases of divorce regardless of their marital status – if officially married or with stable union. In cases where child custody was assigned exclusively to the husband or partner, the property ownership was registered in the name of or transferred to him. In addition, the second phase established new criteria for selection of beneficiaries that included or increased the quotas for elderly people and people with disabilities.²²

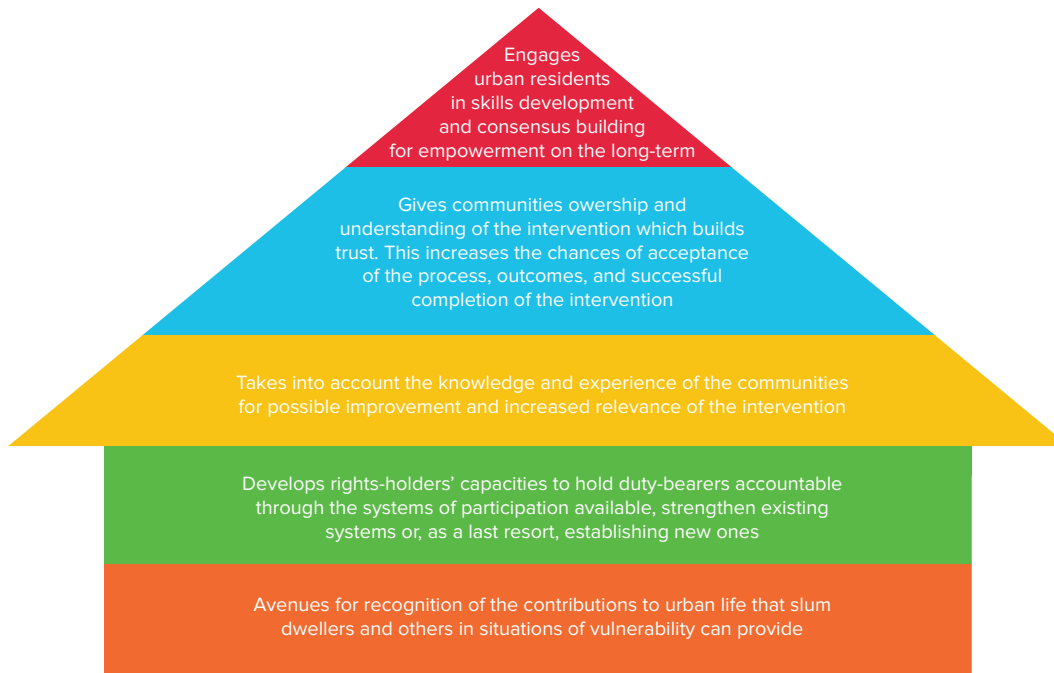
²⁰ OHCHR and UN-Habitat (2014), *Forced Evictions*; Fact Sheet No. 25/Rev.1, p. 17.

²¹ OHCHR (2012), *Women and the Right to Adequate Housing*, p. 38.

²² UN-Habitat (2013), *Scaling-Up Affordable Housing Supply in Brazil*, p. 97.

Inclusive participation also provides an opportunity to build consensus on the causes of a problem which is particularly important when coordinated actions by many partners at different levels is required. It further forms a basis for identifying entitlements and accountabilities which will strengthen the success of integrating the human rights principles of accountability and the rule of law in the process. Without participation and consensus on the sources of the problem, it is unlikely that there will be any consensus on solutions.²³

FIGURE 9. ADDED VALUE OF INCLUSIVE PARTICIPATION IN HOUSING AND SLUM UPGRADING INTERVENTIONS



²³ UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat staff: Promotion and Protection of Human Rights, pp. 13-15.

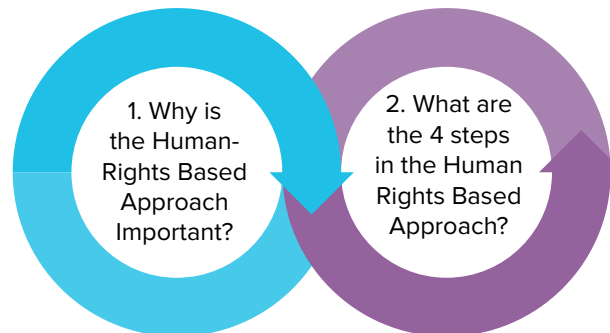


Housing reconstruction in Aceh, Indonesia. © UN-Habitat

3. APPLYING THE HRBA TO AND SLUM UPGRADING INTERVENTIONS

The Human Rights-based Approach is operationally directed toward promoting and protecting human rights.

The questions that will be answered in this chapter are:



WHY IS THE HUMAN-RIGHTS BASED APPROACH IMPORTANT?

All programmes of development co-operation should further the realization of human rights as grounded in the UDHR and other international human rights instruments. HRBA applies a holistic development approach that addresses inequalities and discrimination, leaving no one behind and reaching the furthest behind in development by placing power relationships in human settlements at the heart of its analysis. It entails a 4 step process (human rights analysis, causality analysis, role pattern analysis and the capacity gap analysis) that ultimately enhances the possibilities of integrated, sustainable and inclusive interventions for urbanization processes to effect transformative change. HRBA can be used by housing and slum upgrading practitioners to enhance the quality of interventions and make better informed choices. It can be used for the formulation, planning and design phases of urban policies, programs, projects, and other development interventions and have an important impact in the implementation, monitoring and evaluation.

What is the Human Rights Based Approach?

The human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to development of capacities for promoting and protecting human rights.

It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.

The UN Common Understanding on HRBA

GOAL: All programmes of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments

PROCESS: Human rights standards and principles guide all development cooperation and programming in all sectors and in all phases of the programming process

OUTCOME: Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights

ADDED VALUE OF THE HUMAN RIGHTS-BASED APPROACH IN HOUSING AND SLUM UPGRADING INTERVENTIONS

- 1 Provides a methodological and analytical framework to support implementation of the Sustainable Development Goals, including Goal 11 on cities and human settlements;
- 2 Prioritizes groups in vulnerable situations in urbanization processes, as emphasized in the 2030 Agenda for Sustainable Development to leave no one behind and reach the furthest behind first;
- 3 Addresses structural causes of inequalities and discrimination in cities through an analytic, people-centred and framework, with the goal that human rights should be realized for all urban residents;
- 4 Provides housing and slum upgrading actors with tools for urban development where everyone's human rights are realized and respected and the full potential of all urban areas and its residents, including slum residents, is harnessed;
- 5 Promotes housing and slum upgrading interventions that are integrated, sustainable and inclusive through broad stakeholder participation in all phases of the intervention.

WHAT ARE THE 4 STEPS IN THE HUMAN RIGHTS BASED APPROACH?

Step 1: Human Rights Analysis

The first step of HRBA is to carry out a Human Rights Analysis which encompasses:

- Identification of human rights relevant to the intervention
- Assessment of whether these human rights are enjoyed by everyone, or if certain groups or individuals in vulnerable situation are experiencing, or are at risk of violations of these rights.

Identifying human rights relevant to the intervention

In the inception of a housing or slum upgrading intervention, whether it be a policy, programme or project, it is important to take stock of human rights, especially those that might be at risk of being

violated, if not considered. Doing this will require the review of international, regional and national sources including²⁴:

- **THE CONSTITUTION** - it enshrines the human rights that the people residing in the country in question are entitled to and may depict the specific state entities that are responsible for realizing the rights, and what related obligations they have.
- **NATIONAL LAWS** - they can specify the human rights entitlements and obligations enshrined in the Constitution
- **REGIONAL HUMAN RIGHTS TREATIES²⁵** - they may enshrine relevant human rights.
- **INTERNATIONAL CONVENTIONS** - even though a country might not have enshrined a certain human right in its Constitution or national legislation, it might be bound to fulfil it regardless, by having ratified an international human rights convention.
- **GENERAL COMMENTS AND RECOMMENDATIONS** - each international human rights treaty is associated with a Treaty Body Committee which issues General Comments or Recommendations on the interpretation of key issues in international human rights treaties.

FIGURE 10. GENERAL COMMENTS IN THE ICESCR PROVIDING GUIDANCE FOR HOUSING AND SLUM UPGRADING ACTORS



²⁴ UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat Staff on the Promotion and Protection of Human Rights.

²⁵ 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). There is no explicit reference to the right to adequate housing in 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). However, protection of the right to adequate housing has been ensured in their jurisprudence, 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. OHCHR and UN-Habitat (2009), *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1, p. 12. The Arab Charter on Human Rights (2004) does not mention the right to adequate housing explicitly either.

TABLE 2. HUMAN RIGHTS RELEVANT TO A HOUSING OR SLUM UPGRADING INTERVENTION IN EGYPT

Source	Human Rights
Constitution of Arab Republic of Egypt	Article 78: The right to decent, safe and healthy housing
The Arab Charter on Human Rights	No reference to the right to adequate housing
International Covenant on Economic, Social and Cultural Rights (ratified)	Article 11: The right to adequate housing
Committee on Economic, Social and Cultural Rights, General Comment No. 4	The core content of the right to adequate housing and its seven components: security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.
Committee on Economic, Social and Cultural Rights, General Comment No. 7	Forced evictions constitute gross violations of a range of human rights, such as the right to adequate housing.

Assessing the enjoyment or violation of human rights

After identifying the human rights relevant to the intervention, it is important to assess the actual level of enjoyment of the identified rights by all urban residents and whether people are experiencing or at risk of violations of their rights. A careful analysis will ensure that the realities of minority or marginalized groups are visible, accounted for, and addressed. The main sources that can be used to evaluate this include:

- **THE UNIVERSAL PERIODIC REVIEW (UPR):** - a unique process which involves a review of the human rights record and situation in all UN Member States and can provide useful information when developing a housing or slum upgrading intervention.²⁶
- **UN SPECIAL PROCEDURES:** investigate situations in specific countries or territories, or human rights violations worldwide. Special Rapporteurs examine and report to the Human Rights

²⁶ The UPR 'compilation of UN information' report contains a summary of human rights information, analysis and recommendations for each country under review, including UPR-specific submissions from UN Country Teams and other UN entities.

Council on the situation of human rights themes, or country situations. For the housing and slum upgrading context, useful information on the housing and slum situation in a country can be found in the reports of the Special Rapporteur on the Right to Adequate Housing.²⁷ These documents include: Communications regarding allegations of violations, or the risk of violation, of the right to adequate housing in specific countries; Country visit reports; and Annual reports on specific topics of the right to adequate housing.²⁸

- **CONCLUDING OBSERVATIONS:** Treaty Body Committees also monitor states' compliance with their international human rights obligations. The concerns and recommendations by the Treaty Body Committees can be found in publications referred to as Concluding Observations and might be relevant for policy-makers, project and programme designers.²⁹
- **THE UNIVERSAL HUMAN RIGHTS INDEX:** An OHCHR data base which allows search country by country, and provides easy access to the recommendations of all the UN human rights mechanisms, including the UPR, treaty bodies and special procedures.

TABLE 3. ANALYSIS OF THE ENJOYMENT OF THE RIGHT TO ADEQUATE HOUSING IN BRAZIL

Source	Information
Universal Periodic Review 2nd Cycle, Summary of Stakeholders' information (2012)	<ul style="list-style-type: none"> • Large-scale development projects have left poor communities vulnerable to intimidation and forced evictions; • The National Coalition of World Cup and Olympics Popular Committees (NCWCOPC) recommended regulations and procedures to prevent forced evictions, discrimination and harassment against local populations.
Report of the Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, Mission to Brazil (2004) Concluding observations of the Committee on Economic, Social and Cultural Rights Brazil (2009)	<ul style="list-style-type: none"> • Marginalization of the poor and historic discrimination against the Afro-Brazilian community and indigenous peoples; • Enormous magnitude with homelessness, landlessness, housing deficit and housing inadequacy; • Imperative to emphasize women's equal rights to housing and land, especially in light of the feminization of poverty; • More than 6 million people in the state party live in insecure urban settlements; • Significant migration inflow into urban areas exacerbates the housing shortage; • Inadequate measures to provide social housing for low-income families and the disadvantaged and marginalized.

²⁷ The UN Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

²⁸ <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

²⁹ Concluding Observations of the CESCR can be found on the following webpage: <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIntro.aspx>.

HUMAN RIGHTS ANALYSIS CHECK LIST



1a. Identify the human rights relevant to the housing or slum upgrading intervention and the sources of human rights law where they were found



1b. Assess the level of enjoyment of the identified rights by all urban residents



1c. Evaluate whether slum dwellers and other groups in vulnerable situations at higher risk of having these rights violate?

Step 2: Causality Analysis

The Causality Analysis aims to identify the causes and effects of the housing or slum challenge. It requires the:

- Identification of the immediate causes, underlying causes and root causes of the manifested housing or slum upgrading challenge;
- Analysis of the relationships between the various causes and effects; and
- Analysis of power relations and the human rights implications.

Identifying Root Causes

In planning for a housing or slum intervention, it is necessary to analyze why a problem exists and carefully establish links between the immediate, underlying or root causes and the effects. Immediate causes of human rights violations are those that develop on a short-term and catalyze the housing or slum upgrading challenge. Underlying causes are the consequence of housing policies, laws, capacities and availability of resources. They reveal related complex issues and require interventions that take significant time in obtaining results. Root causes are usually found in the complex and structural processes related to culture, society, beliefs, macroeconomics and government. They reveal conditions that require long-term interventions in order to change societal and cultural attitudes and behaviour at different levels, including those at the family, community and higher decision-making levels.³⁰

Choosing a selected set of related root, underlying and immediate causes will ensure the comparative advantage of your organization, and the benefit of addressing the root and underlying causes of a problem for long-term and structural change

³⁰ UNFPA (2014), A Human Rights-Based Approach to Programming - Practical Implementation Manual and Training Materials, p. 97.

The various causes of a manifested problem can be visualized in a problem tree (Figure 9). For instance, weak housing sector governance (root cause), may lead to it being dominated by speculative forces (underlying cause), which might result in slum residents residing in dwellings with informal tenancy status due to the unaffordability of formal housing (immediate cause) and are subsequently forcibly evicted by local authorities (manifestation of the problem).

Relation of Causes and Effects

After distinguishing between the immediate, underlying and root causes, it is important to carefully establish the links between the identified causes and their effects to ensure that the housing or slum upgrading intervention is indeed directed toward addressing the causes. Thus, mapping out how the immediate, underlying and root causes relate in the problem tree, and challenge the assumptions. There might be a combination for different root causes or underlying causes to produce the immediate causes, which would not produce the same result individually.³¹

Causality Analysis mappings can therefore, show intricate patterns of causality and all causes of the manifested housing or slum upgrading problem cannot be addressed by one project, programme or policy.

Identification of relevant human rights affected by the challenge

The mere identification of causes does not make a Capacity Gap Analysis human rights-based. It needs to include the human rights that are relevant to the root, underlying and immediate causes of the problem. For instance, in the case of forced evictions in a slum, the human rights of relevance include: the right to adequate housing, the rights to water and sanitation, the right to education, the freedom to choose one's residence, the right to be protected against arbitrary interference with one's home (Figure 9). Additionally, the identification of the rights that relate to the causes will enable the identification of entitlements of rights-holders and obligations of duty-bearers in the role pattern analysis (Table 4).

³¹ UN-Habitat (2015), *Programmatic Guidance Note for UN-Habitat staff: Promotion and Protection of Human Rights*, p. 15. For further reading on the importance of disaggregated data, see Chapter 5.2

Analysing power relations causing the housing or slum upgrading challenge

Some individuals or groups might run an elevated risk of having their rights violated because of power relations manifested in discrimination and inequality. Thus, the Causality Analysis also needs to take into consideration patterns of discrimination and inequality for the people affected by the housing or slum upgrading challenge, to not leave anyone behind. The analysis should consider the different ways that females, males and people in situations of vulnerability experience the problem (problem tree).

To this end, policy, programme or project developers throughout the phases of the housing and slum upgrading intervention should use and collect disaggregated data to evaluate whether certain individuals or groups including the urban poor, slum residents, people facing – or at risk of facing – forced evictions, homeless persons, children, youth, older persons, persons with disabilities, migrants, including refugees, and displaced persons, indigenous peoples, persons with HIV/AIDS, persons of diverse sexual orientations and gender identities, and women are at risk of or actually experiencing violations of the human right to adequate housing and other human rights.³²

In Phase 1 of UN-Habitat's PSUP, information and data gathered takes into consideration the different impacts of urban sector issues on the living conditions of women, youth and people in vulnerable situations.

CAUSALITY ANALYSIS CHECKLIST



2a. Identify the manifested housing or slum problem



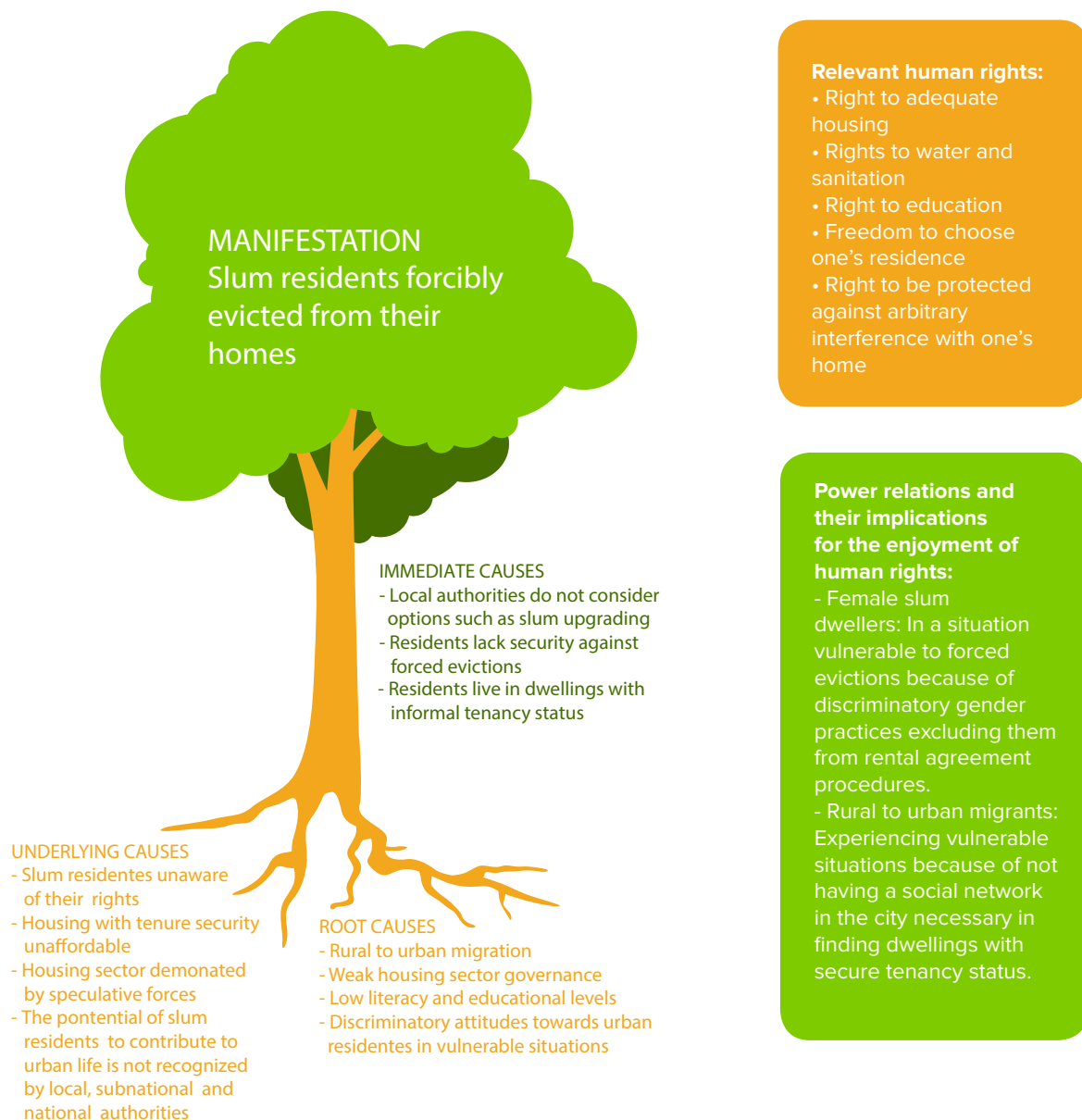
2b. Identify the immediate, underlying and root causes to the problem



2c. Link the causes to the effects

³² UN System Staff College (2006), The Updated UN Inter-Agency Common Learning Package on a Human Rights-Based Approach to Programming..

FIGURE 11. FORCED EVICTIONS CAUSALITY ANALYSIS PROBLEM TREE



Step 3: Role Pattern Analysis

The Role Pattern Analysis enables the identification of those with valid human rights claims, and those with corresponding duties crucial for the intervention. The Role Pattern Analysis thereafter permits an identification of the most important rights-duties relationships to focus on in the intervention, in order to ensure the largest impact. The Role Pattern Analysis is carried out according to the following steps:

- Identification of rights-holders with valid human rights claims;
- Identification of duty-bearers and their corresponding obligations;
- Assessment of whether rights-holders are claiming their rights and duty-bearers are fulfilling their obligations;
- Identification of the most important rights-duties relationships.

Identifying the Rights-holders and Duty-bearers

Identifying the Rights-holders and Duty-bearers

Using the Causality Analysis problem tree with the relevant human rights, a list of rights-holders and duty-bearers can be prepared for each identified right. As aforementioned, every human being is entitled to enjoy fundamental rights and freedoms. In the specific case of the human right to adequate housing, anyone residing in a state that has enshrined the right to adequate housing in its Constitution, and/or ratified the ICESCR is a rights-holder who holds valid claims on the right to adequate housing and its components. Thus, all residents of that state can consequently claim the right to adequate housing in their capacity as rights-holders.³³ Further, the human rights standards provide guidance on what the rights-holders are entitled to in respect to each right. Also, the seven components of the right to adequate housing clearly indicate what the rights-holders are entitled to claim with regards to housing, according to international law. Individuals are also required to respect the human rights of others, recognized in the Preamble of both the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR.

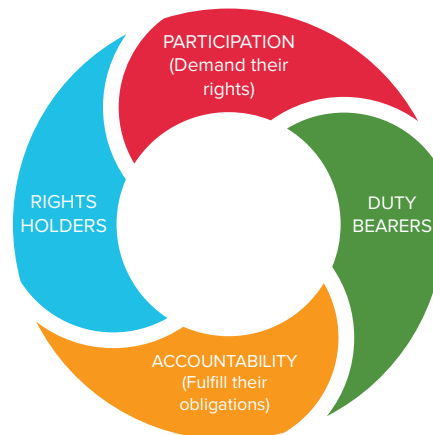
Rights-holders with valid claims on human rights, such as the right to adequate housing, the rights to water and sanitation etc., include all residents. It includes those living in slums and informal settlements without security of tenure and availability of services, as well as those living in formal settlements. Rights-holders also include people of different sex, age and people in situations of vulnerability.

State entities and their officials are the primary duty-bearers with obligations to respect, protect and fulfil human rights corresponding to the claims of the rights-holders. This includes national and local public service providers of e.g. electricity, water and sanitation and garbage collection, mayors, governors, officials of the City Council, city administrators and local and subnational government

³³ It is worth to note that constitutions might provide for a right to adequate housing with other terminology. Constitutions can also enshrine a right to shelter or, adequate shelter, a right to a decent and safe home, etc.

officials, courts, ministry officials, national government officials, legislators, presidents and prime ministers. While states and their different entities are the primary duty-bearers to respect, promote and protect human rights, non-state actors may also be duty-bearers.

Non-state actors duty-bearers include landlords, businesses and private service provider companies, development banks and architect firms, community leaders, religious affiliations, NGOs, Community-Based Organizations (CBOs), donors, UN agencies, parents, community leaders, religious leaders and tribal elders. The acts of a company, private or publically owned, can be attributed to the state when the business enterprise is acting under the state's direction, control or instructions, or is empowered to exercise elements of governmental authority.³⁴ Failure by states to ensure that business enterprises performing such services operate in a manner consistent with the state's human rights obligations may entail both reputational and legal consequences for the state itself.³⁵



Are duty-bearers fulfilling their obligations?

The next step is to assess whether duty-bearers are actually observing their obligations to respect, protect, and promote human rights. For instance, duty-bearers might respect the right to adequate housing by refraining from carrying out forced evictions and home demolitions. Yet, the obligation to protect might not be observed if there is no legislation to ensure that private actors are refraining from carrying out forced evictions.



Subsequently, the identification of rights-holders and duty-bearers can be organized into a Role Pattern Analysis matrix (Table 4).

³⁴ ILC (2001), Responsibility of States for Internationally Wrongful Acts; OHCHR (2007), State Responsibilities to Regulate and Adjudicate Corporate Activities under the United Nations' core Human Rights Treaties, Individual Report on the International Covenant on Civil and Political Rights, Report No. III.

³⁵ As a necessary step, the relevant service contracts or enabling legislation should clarify the State's expectations that these enterprises respect human rights. States should ensure that they can effectively oversee the enterprises' activities, including through the provision of adequate independent monitoring and accountability mechanisms. OHCHR (2011), Guiding Principles on Business and Human Rights, p. 8.

TABLE 4. ROLE PATTERN MATRIX ON THE RIGHT TO ADEQUATE HOUSING IN KENYA







Rights-holders	Claim (National & International Law)	Current Status
<p>Slum dwellers, migrants, women, men, children, older persons</p>	<p>Constitution: Article 43(1)(b): The right to accessible and adequate housing; the right to reasonable standards of sanitation; Article 53(1)(c) and (d): The right of every child to shelter; the right of every child to be protected from violence; Article 27: The right to equality and non-discrimination; Article 22(1): The right to institute court proceedings due to denial, violation or infringement of a right;</p> <p>ICESCR (ratified by Kenya): Article 11(1): 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.</p>	<p>Persons living in informal settlements were frequently deprived of affordable access to adequate water and sanitation. New housing units constructed under slum upgrading projects such as the Kenyan Slum Upgrading Programme (KENSUP) for Kibera/Nairobi were unaffordable for disadvantaged and marginalized families and individuals. Demolition of dwellings and forced evictions of persons living in informal settlements and on road reserves, reportedly without prior notice and provision of adequate alternative housing or compensation.</p>
Duty-Bearers	Claim (National & International Law)	Current role
<p>Local authorities, landlords, water providers</p>	<p>Constitution: Article 21(1) and (3): The duty of the State and every State organ to observe, respect, protect, promote and fulfil these rights; the duty of the State and every State organ to address the needs of vulnerable groups;</p> <p>ICESCR: Article 2(1): Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, 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.</p>	<p>Recommendation 143.61: Adopt legal and administrative measures to ensure the freedom of movement and other basic rights of refugees; in particular, to apply appropriate exemption categories for persons with specific protection needs in order to allow their continued stay in urban centres. Recommendation 142.149: Take all necessary measures to provide individuals that are under threat of being forcibly evicted with full protection against forced eviction in line with international obligations and commitments. Recommendation 142.149: Avoid forced relocation and family separations among refugees and asylum seekers.</p>

Rights-Duties Linkages

Even where housing and slum upgrading policies, programmes or projects appear to result in equality by treating everyone the same, the experience of effect can be discriminatory owing, for example, to a person's socioeconomic status, residency or gender, and the intervention can in this way do unintended harm. As such, to ensure the greatest impact possible of the intervention and avoid the risk of interventions perpetuating patterns of discrimination, marginalization and exclusion, the rights-holders who have a high risk of human rights violations should be urgently prioritized.³⁶

Thus, it is necessary to be aware of the rights-duty relationships that are most directly related to the housing or slum challenge addressed. For example, if the Human Rights Analysis and the Causality Analysis show that female migrant slum dwellers are forcibly evicted by local authorities, despite their obligation to not do so, at greater rates than other groups experiencing substantially higher rates of forced evictions than other groups, then this rights-duty relationship can be focused on.

ROLE PATTERN ANALYSIS CHECKLIST

-  3a. Identify the rights-holders and their claims (national and international law)
-  3b. Assess the level of enjoyment or lack thereof of the rights they have claims to
-  3c. Identify the duty-bearers and their obligation to address the rights claimed (national and international law)
-  3d. Assess the role the duty-bearers currently play in respecting, protecting, and fulfilling said rights
-  3e. Identify the individuals/groups in the most vulnerable situations
-  3e. Pair the rights to the duties to be of focus in the intervention to bring change for those in the most vulnerable situations

Step 4: Capacity Gap Analysis

³⁶ CESCR (2005), General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Human Rights, E/C.12/2005/4, para. 16. In: Special Rapporteur on the Right to Adequate Housing (2015), Report 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, Leilani Farha, A/70/27, para. 52.

A basic assumption underlying the HRBA is that human rights are not realized because rights-holders lack capacity to claim their rights, and/or duty-bearers lack capacity to meet their human rights obligations to respect, protect, and fulfill human rights. The HRBA Capacity Gap Analysis seeks to show the capacity gaps for rights-holders to claim their rights and duty-bearers to fulfil their obligations.

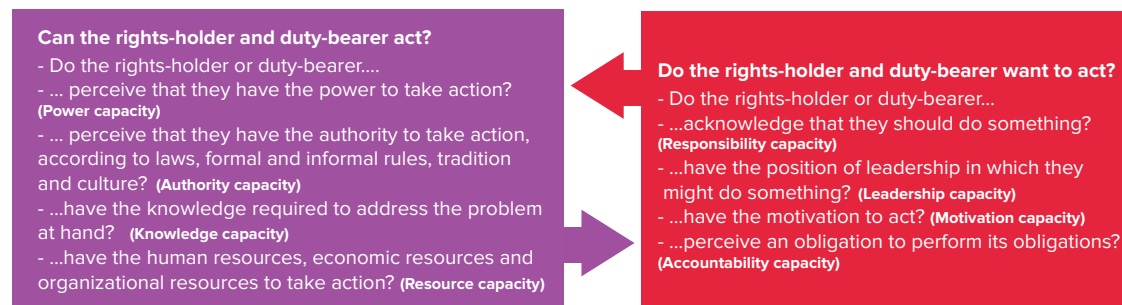
The Capacity Gap Analysis is carried out as follows:

- Identify capacities lacking for rights-holders to claim their rights;
- Identify capacities lacking for duty-bearers to fulfil their human rights obligations;

Identify interventions to reduce or close these capacity gaps.

Identify Capacity Gaps of rights-holders and duty-bearers

Capacities can take a variety of forms and can be arranged into two sets of questions; 1) can the rights-holder or duty-bearer act? and 2) is the rights-holder or duty-bearer *willing* to act?



Even if rights-holders and duty-bearers can act and want to act, an assessment needs also to be made of the resources available or unavailable, including:

- **Human resources** such as time and skills to address.
- **Economic resources** including land, natural resources and means of production such as tools or equipment, technology, income and credit.
- **Rights-holders** may also lack participation resources to be able to participate in the processes without constraints.³⁷
- **Organizational resources**, referring to formal and non-formal organizations such as family, extended family, clan, community-based organizations (CBOs), non-governmental organizations (NGOs), administrative structures, institutions, etc.
- **Communication resources** to be able to access information and participate in communication

³⁷ For elaboration on the different resources, see UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat staff: Promotion and Protection of Human Rights, pp. 18-20.

systems.

To ensure that experienced situations of vulnerability are taken into consideration in the Capacity Gap analysis, consider whether women and men, as well as those in vulnerable situations, experience different types of capacity gaps. Also, assess whether duty-bearers have the capacity to understand and address gender and vulnerability dimensions of the capacity gaps.³⁸ Subsequently, priority actions should be identified on activities, outputs and outcomes that are most likely to contribute to reduce or close each of the capacity gaps of rights-holders and duty-bearers.

TABLE 5. CAPACITY GAP ANALYSIS MATRIX

Rights-holders	Power Capacity Gaps (What is stopping the actor from taking action?)	Motivation Capacity Gaps (What is stopping the actor from being willing to take action?)	What they need to take action on
Female migrant slum dwellers	<ul style="list-style-type: none"> - Lack of knowledge about the unlawfulness of forced evictions. - Lack of structures for community organization that include female migrant slum dwellers. 	<ul style="list-style-type: none"> - Women not expected to raise their concerns in community meetings. - Migrant slum dwellers not perceived to be in the position to do something about the problem due to their migrant status. 	<ul style="list-style-type: none"> - Awareness raising on the obligations of local authority officials with regards to the right to adequate housing, and unlawfulness of forced evictions; - Awareness raising on equality and non-discrimination; - Establishment of structures within local government urban procedures to include marginalized and discriminated groups, such as female migrant slum dwellers.
Duty-Bearers	Power Capacity Gaps (What is stopping the actor from taking action?)	Motivation Capacity Gaps (What is stopping the actor from being willing to take action?)	What they need to take action on
Local authority officials	<ul style="list-style-type: none"> - Lack of knowledge about the unlawfulness of forced evictions and the duties of local authority officials to respect, protect and fulfill the right to adequate housing. 	<ul style="list-style-type: none"> - Lack of sense of responsibility to prevent forced evictions. 	<ul style="list-style-type: none"> - Awareness raising on the obligations of local authority officials with regards to the right to adequate housing, and unlawfulness; - Formulation of regulations preventing forced evictions and guidance for local authority officials; - Establishment of procedures, including eviction impact assessment and alternatives to forced evictions.

CAPACITY GAP ANALYSIS CHECKLIST

³⁸ UN System Staff College (2006), The Updated UN Inter-Agency Common Learning Package on a Human Rights-Based Approach to Programming.



4a. Identify the capacity gaps that bar the rights-holders from claiming their right



4b. Identify the capacity gaps that bar the duty-bearers from meeting their obligation to respect, protect, and fulfill human rights



4c. Identify the actions to be taken to reduce or close the capacity gaps so that slum dwellers and people in situations of vulnerability are prioritized in the intervention?



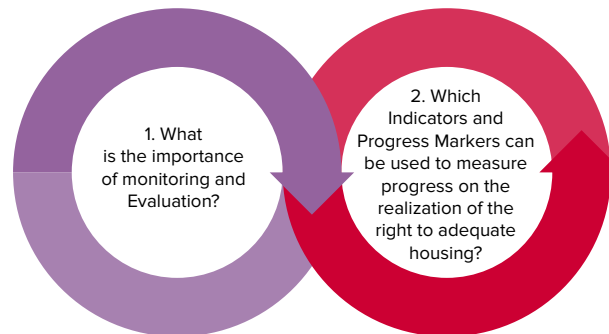


Street in Korogocho slum in Nairobi, Kenya © Julius Mwelu/UN-Habitat

4. MONITORING AND EVALUATION

WHAT IS THE IMPORTANCE OF MONITORING AND EVALUATION?

The questions that will be answered in this chapter are:



Most current development practices tend to solely focus on the monitoring of desirable outcomes and pay little to no attention to the quality of the processes. However, the equal attention to monitoring both outcome and process is a fundamental premise in human rights-based monitoring.³⁹

³⁹ UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat staff: Promotion and Protection of Human Rights, p. 72.

Monitoring and evaluation (M&E) is a process which helps improve performance and achieve results. Its goal is to improve current and future management of outputs, outcomes and impact. Monitoring consists of tracking and measuring delivery of the policy, programme, project or intervention during implementation and may call for readjustments for efficiency and effectiveness. The 2030 Agenda for Sustainable Development emphasizes the importance of the continuous process of monitoring and data collection. Monitoring enables rights-holders to hold the duty-bearers accountable for failure to carry out duties.⁴⁰ The quality of an evaluation is largely dependent on the quality of monitoring data collected during implementation.

Evaluation examines and assesses delivery as compared to what was planned or expected based on monitoring data and other sources. Evaluations are in-depth assessments sometimes selectively undertaken at specific stages in the programme cycle and always after completion of the intervention. They assess the relevance, efficiency, effectiveness, sustainability and impact outlook of the intervention. Ensuring independence and credibility of the evaluation process enhances the use of evaluation findings to influence decision-making by programme partners on the basis of lessons learned.

The HRBA calls for ensuring that both rights-holders and duty-bearers are meaningfully and actively involved in monitoring and evaluation, as well as other actors who might be external to the project but can give an objective perspective. The process of monitoring and evaluation should be participatory, non-discriminatory, open and transparent for the purposes of accountability, inclusiveness and sustainability.⁴¹ It can also function as a learning process and can support the future maintenance of the intervention. (See Table 10 for the ways in which the steps of UN-Habitat's Participatory Slum Upgrading Programme is linked with HRBA.)

Disaggregated Data

Data about the beneficiaries is important for tracking and monitoring the progress of any housing or slum upgrading intervention. Data should be broken down (disaggregated) into sub-categories, i.e. by gender, age, race, ethnicity, income, migration status, disability or other characteristics relating to grounds of discrimination to reveal disparities and discrimination faced by some groups in exercising their right to adequate housing.

The MDGs inadvertently encouraged nations to measure progress through national averages. In the rush to make progress, many focused on the easiest-to reach communities, not those in the most vulnerable situations.⁴² Consequently, progress was made and measured, but inequalities

⁴⁰ OHCHR (2003), Draft Guidelines: A Human Rights-Based Approach to poverty reduction strategies, p. 57.

⁴¹ UN System Staff College (2006), The Updated UN Inter-Agency Common Learning Package on a Human Rights-Based Approach to Programming

⁴² UNICEF (2015), Progress for children; Beyond averages: Learning from the MDGS, p. iii.

were not addressed and many of those who saw their human rights violated the most were not reached. As a consequence, development policies and projects may have contributed to leaving the poorest and the most marginalized far behind.⁴³

TABLE 6. THE STEPS OF THE PARTICIPATORY SLUM UPGRADING PROCESS AND THEIR LINK TO HRBA

Slum upgrading process	Expected outcome	Link with HRBA
1. Set up, principles established, objectives and management team decided	National and city-level slum upgrading teams	- Human rights principles and underpinning process - Human rights standards guiding objectives and outputs - Management team with all key stakeholders including slum dwellers and others in vulnerable situations
2. Urban profile	National or city-level profile of slums and characteristics of slum dwellers	- Up to date profile of slums and slum dwellers established - acknowledge marginalized groups - - Collection of disaggregated data to track and prevent discrimination and inequalities
3. Action planning	Participatory planning process to develop pilot project initiatives	- Inclusive participatory planning approach officially adopted and implemented.
4. Pilot project implementation	Implementation of pilot project	- Pilot projects directed at addressing the rights of the most marginalized and in bringing about systemic change.
5. Development of an at-scale response	National or City-wide slum upgrading strategy	- Systemic nature of slums addressed underpinned by a framework of respect, protection and fulfillment of human rights and the inclusion of slum dwellers into the rest of the urban context.
6. Evaluation mechanism	As per initial project development, key objectives and outputs reviewed	- Review process undertaken with particular attention to the impacts and benefits on marginalized groups and the long term institutional changes made.

⁴³ HLCP Position Paper (Draft), Equality and Non-Discrimination at the Heart of the 2030 Agenda: Towards a UN System-Wide Policy and Action Plan on Addressing Inequalities and Human Rights for Sustainable Development, p. 4.

Participatory data collection can mitigate such risks as it provides transparency, improved data gathering and better data, and self-empowerment where no one is left behind.⁴⁴ It can reveal information about slums dwellers and residents of informal settlements that governments and even community members themselves are not aware of. Through broad-based participation by residents, the actions of powerful elites within a settlement can be countered, and marginalized groups, such as women, tenants, seasonal contract workers, backyard dwellers etc., can be included in the upgrading and development processes that follow to ensure that issues of discrimination and inequality are addressed.

Hence, the 2030 Agenda calls for more systematic data disaggregation to help achieve and measure the goals, and SDG Target 17.18 requests that SDG indicators are disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.

Participatory Enumeration
The Global Land Tool Network (GLTN), responsible for land administration and the achievement of land and property rights for all, uses participatory enumeration which is a data-gathering process designed and conducted by the people being surveyed. Through community organization, representation and transparency, a level of control and ownership of the process is maintained, and can ensure that the process is aimed at issues and problems directly relevant to the community's rights, well-being and development.

WHICH INDICATORS AND PROGRESS MARKERS CAN BE USED TO MEASURE PROGRESS ON THE REALIZATION OF THE RIGHT TO ADEQUATE HOUSING?

Indicators and Progress Markers

During and after the housing or slum upgrading intervention, it is necessary to verify its impact for the rights-holders and duty-bearers and contribution to the realization of the right to adequate housing and other human rights. Indicators and progress markers can be used to measure the impact of interventions and the possibilities of strategic improvement of policies, programmes and projects. The HRBA states that equal attention should be given to the achievement of desirable human rights outcomes and to the quality of the process leading to these outcomes. Policies, projects and programmes should therefore be designed with a mix of qualitative and quantitative indicators that allow for monitoring of both outcomes guided by human rights standards, and processes guided by human rights principles.

⁴⁴ UN-Habitat and GLTN (2010), Count me in - Surveying for tenure security and urban land management, pp. 7, 8, 32-33, 151.

Indicators and progress markers should enable measuring of:

- Sustained, positive changes on the seven components of the right to adequate housing and other human rights of rights-holders;
- The ways in which the project/programme processes meet the human rights principles and standards, especially for groups in vulnerable situations; Legal, policy, institutional, and behavioural changes leading to a better performance of rights-holders to claim their rights and duty-bearers to meet their obligations.

As a general rule, indicators should be specific what regards to quantity, quality, time, target and place. For instance, each SDG Target is accompanied by an indicator framework to which indicators and progress markers should correspond. Indicators and progress markers should also be disaggregated to the largest extent possible to capture the experiences of various groups in situations of vulnerability.⁴⁵ Indicator and progress marker selection and monitoring should also be formulated through a participatory and inclusive process to find the best suitable measurements for the intervention at hand.

Indicators Measuring Progress on the Realization to Adequate Housing

When used to measure the progress of the right to adequate housing, they should be connected to the seven adequacy criteria, as well as the SDG indicator framework. This will allow for the measuring of concerted global efforts and comparisons between other interventions as well as country progress.

Furthermore, indicators can be useful for rights-holders in claiming their right to adequate housing, for instance, in the Seven Towers social housing complex in North Belfast, North Ireland, where the residents used indicators to claim their rights. With the assistance of a civil society organization, Participation and the Practice of Rights Project (PPR), the residents linked their recurrent and serious housing problems to a set of core indicators related to international human rights standards. Indicators and their corresponding benchmarks were used to monitor the performance of government institutions in delivering residents' housing entitlements over several time periods. Indicators used relating to the right to adequate housing included:

Residents reporting drainage and sewage problems (availability of services, the rights to water and sanitation);

Residents reporting dampness and mould in their flats (habitability);

Residents dissatisfied with how involved they felt in decisions by the housing executive (participation and inclusion).

⁴⁵ Transforming Our World: The 2030 Agenda for Sustainable Development (2015), para. 48.

Moreover, a monitoring body set up by the residents' tracked progress and also submitted progress reports on benchmarks to the relevant government institutions. The monitoring process using indicators and benchmarks, coupled with media attention and information obtained through the Freedom of Information Act, helped the residents achieve small, yet important improvements in their housing conditions. The government institutions also acknowledged that the residents' active participation assisted them in administrating resources efficiently.⁴⁶

Progress Markers Measuring Progress on the Realization to Adequate Housing

Progress markers⁴⁷ also demonstrate essential steps towards change, and complement indicators in measuring progress in human rights-based interventions, especially in assessing attitudes, perceptions and behaviour. Progress markers are made up of statements that have elements of progression which can be monitored and observed over time into three categories:

1. Changes that are expected to be seen, which will be a direct result of the intervention,
 - For instance, if the capacity for duty-bearers to meet their obligations to respect, protect and fulfill human rights is improved upon, then one would expect to see an increase in capacity and knowledge as a direct result of the training;
2. Changes that you would like to see, which refer to the changes that should happen as time progresses,
 - in the example presented before, a change you would like to see is that the duty-bearers have not only learned but also began applying the knowledge in their operations;
3. Changes you would love to see, which refer to the transformational results such as a change in behavior, practices, values, etc.
 - This would entail showing duty-bearers how to share and influence changes in society with their attained knowledge and skills.

⁴⁶ D. Donnelly, F. McMillan and N. Browne, "Active, free and meaningful: resident participation and realising the right to adequate housing in north Belfast", 2009. Available from www.york.ac.uk/chp/hsa/papers/spring09/Donnelly.pdf (accessed 23 May 2012). Participation and the Practice of Rights Project (www.pprproject.org). In: OHCHR (2012), Human Rights Indicators: A Guide to Measurement and Implementation, p. 61.

⁴⁷ Progress markers are part of Outcome Mapping methodology. For further reading, see <http://www.outcomemapping.ca/>, accessed on 1 June 2016.

TABLE 7. PROGRESS MARKERS FOR THE REALIZATION OF THE RIGHT TO ADEQUATE HOUSING

Progress Marker	Examples	
Expect to see...	Female migrant slum dwellers community groups holding meetings with learning sessions on tenancy agreements and security of tenure.	Landlords establishing procedures on how to provide tenants with security of tenure according to the requirements laid down in national legislation.
Like to see...	Female migrant slum dweller community groups to educate and inform other slum dwellers, including those in situations of vulnerability, on how security of tenure can be ensured through written rental agreements, the contents of such agreements and monitor tenancy agreements and collecting data for documentation on progress.	Landlords establishing tenancy agreement with security of tenure for every tenant, with particular attention to the special needs of persons in vulnerable situations such as female migrant slum dwellers and others.
Love to see...	Migrant women community groups partnering with landlord organizations and local government to promote security of tenure to slum dwellers through policies, programmes and projects.	Landlord organizations establishing internal M&E systems for compliance to established security of tenure guidelines and sharing experiences to ministries, governments and organizations.

CONCLUSION

The HRBA methodology can help housing and slum upgrading policies, programmes and projects to ensure integrated, inclusive and sustainable interventions that effect transformative change in urbanization processes, and contribute to the realization of the right to adequate housing and other human rights in cities.

The Handbook shows how the HRBA contributes to a rights-based implementation of SDG No. 11 on sustainable and inclusive cities and communities and other SDGs. Housing and slum upgrading actors can address structural patterns and underlying and root causes of inequalities in housing by prioritizing rights-holders in situations of vulnerability, and ensuring their meaningful and active participation through the HRBA methodology.

This handbook has espoused the pledge in the 2030 Agenda for Sustainable Development to leave no one behind and reach the furthest behind first in development, and contribute to the implementation of the New Urban Agenda where human rights and housing are at the centre.



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The Human Rights-Based Approach to Housing and Slum Upgrading Handbook provides housing and slum upgrading actors with the unique opportunity to strengthen their knowledge of how to develop inclusive and human rights-based housing and slum upgrading interventions that place people, human rights and adequate housing at the centre of urbanization.

This Handbook addresses inequalities and discrimination, while prioritizing groups in vulnerable situations; thus, making important contribution to the realization of the United Nations 2030 Agenda for Sustainable Development. It is also aligned with the call to leave no one behind in making cities and human settlements inclusive and sustainable.

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