

Formal and Consensus-based Observations and Recommendations to UN-HABITAT

By participants in the
International Expert Group Meeting on Forced Evictions
20 – 23 September 2011

Background

In the context of the elaboration of the Global Housing Strategy to the year 2025 and within the framework of UN-HABITAT's Adequate Housing for All Programme, more than 50 experts, observers, representatives of governments, and representatives of Permanent and Observer Missions to UN-HABITAT in Nairobi exchanged views and contributed knowledge and ideas to the discussions on the future role of UN-HABITAT with respect to preventing, monitoring and assessing the impact of forced evictions globally. Organized in strong collaboration with the Office of the High Commissioner for Human Rights, the Expert Group Meeting of technical experts, academics and practitioners was expected to shape and build the kind of momentum, which is necessary for a further push forward in elaborating the future role of UN-HABITAT in the area of housing rights, including the right not to be forcibly evicted.

Experts were expected to provide suggestions and recommendations on UN-HABITAT's future institutional collaborations (including with the United Nations High Commissioner for Human Rights under the United Nations Housing Rights Programme), on the potential re-branding of the Advisory Group on Forced Evictions (AGFE) into an "International Steering Group on Evictions" as well as the feasibility and desirability of establishing a Global Housing Rights Network. This included, on the one hand, elaboration on UN-HABITAT's modes of interaction with a variety of relevant actors and, on the other hand, definition of its priority activities within the strategic framework of UN-HABITAT's emerging priorities and a mapping of other actors' activities in the area of forced evictions.

Experts at the meeting affirmed their readiness to provide UN-HABITAT with recommendations on UN-HABITAT's role with respect to preventing, monitoring and assessing the impact of forced evictions globally. These recommendations are based on a vast depository of information and experience that experts at the meeting have accumulated over many years, in many capacities, and with many varied constituencies.

Miloon Kothari, Executive Director, Housing and Land Rights Network in India, was nominated by the group of experts to formally present the following formal and consensus-based observations and recommendations to the Executive Office of UN-HABITAT on 23 September 2011.

The right to adequate housing in the Habitat Agenda

The right to adequate housing (as a component of the right to an adequate standard of living) is enshrined in many international instruments, and in particular the Universal Declaration of Human Rights (art. 25.1) and the International Covenant on Economic, Social and Cultural Rights (art. 11.1). During the 1990s, the right to adequate housing gained increasing recognition among the human rights community, and many governments adopted or revised housing laws and policies to include various dimensions of human rights.

The Second United Nations Conference on Human Settlements (Habitat II) in 1996 harnessed this momentum. The outcomes of the Conference, the Istanbul Declaration and the Habitat Agenda, constitutes a framework where human settlements development is linked with the process of realizing human rights in general and housing rights in particular. 33 out of the 241 paragraphs in the Habitat Agenda specifically refer to human and/or housing rights.

The Habitat Agenda, particularly in its para. 61, clarifies actions and commitments of governments and other stakeholders in order to promote, protect and ensure the full and progressive realization of the right to adequate housing.

General observations by EGM participants

1. Stressing the importance for all UN organizations, agencies and programs to comply and promote international human rights law, and recognizing the role and work of UN-HABITAT within the UN system to uphold the values of the UN Charter, including the realization of human rights for all;
2. Recognizing UN-HABITAT's progressive engagement on and commitment to socially inclusive and sustainable urban development and slum prevention/upgrading;
3. Recognizing the importance of HABITAT Agenda partners and other housing rights stakeholders;
4. Recognizing the need to understand and uphold the principles of self-determination, non-discrimination, gender equality, rule of law, non-retrogression, the use of the maximum of available resources by states, and international cooperation by states in the context of UN-HABITAT's work on the right to adequate housing and the protection from forced evictions;
5. Recognizing the importance of engaging with distinct groups at risk, in particular women, children, older persons, people with disabilities, and minority and indigenous groups;
6. Regretting that UN-HABITAT has not adopted an explicit policy on the integration/mainstreaming of human rights into its policy development and project programming despite its strong commitments as stated in the HABITAT agenda;
7. Regretting the lack of leadership and consequent inaction of UN-HABITAT in promoting its mandate with respect to the right to adequate housing, as elaborated in the Habitat Agenda, international human rights instruments, and other relevant documents;
8. Recalling and reaffirming that the practice of forced evictions, and the lack of respect for the right to adequate housing, is a gross violation of human rights;
9. Noting with concern the direct links between the violations of human rights - and in particular the right to an adequate standard of living - with social unrest;

10. Emphasizing the need for UN-HABITAT to pro-actively engage in preventing forced evictions and promoting alternatives thereto, in an effective, efficient, clear, transparent and results-oriented manner;
11. Suggesting that UN-HABITAT has a unique role to play in its engagement with governments at both national and local levels and in engaging other state actors, development actors, and multinational actors;

The participants convening for the International Expert Group Meeting on Forced Evictions formally recommends to UN-HABITAT the following:

1. The Human Rights based approach

1. Articulate its human rights mandate as a UN organization, especially in regard to the right to adequate housing and the right not to be forcibly evicted, in its reports, programme work, and technical/financial support;
2. Adopt a formal human rights policy and a conceptual framework for how to embed the human rights based approach in all of its programming, and in all specific projects in which it is engaged, and build the capacity of its staff to implement it. This includes, but is not limited to:
 - a. An explicit recognition that development is not just a technical process; political issues, social disparities and power imbalances must be addressed, and good governance must be strongly encouraged;
 - b. An explicit recognition of the indivisibility and inter-relatedness of all human rights and emerging concepts – such as the right to the city – supporting it;
 - c. Set up procedural safeguards and mechanisms within UN-HABITAT programme development to ensure that a rights-based approach has been upheld;
 - d. Ensure the meaningful consultation and participation of affected people in the design and implementation of UN-HABITAT programs and processes;
3. Clarify current UN-HABITAT concepts within the human rights framework, such as “public purpose”, “illegality of slums”, “cities without slums”, “right to the city”, and “socially produced property values” (plusvalia)
4. Undertake a comprehensive human rights evaluation of all of UN-HABITAT’s programs, plans, projects, partnerships, initiatives and outputs in order to assess their conformity with and uphold human rights principles and identify changes required in order to ensure that they promote human rights, including the right to adequate housing;
5. Explicitly acknowledge that people living in poverty and other vulnerable and marginalized groups are UN-HABITAT’s core constituency and that its programs and projects must retain a primary focus on empowering those who are marginalized, or at risk of being marginalized, in the development process;
6. Strengthen its utilization of the Basic Principles and Guidelines on Development based Eviction and Displacement (A/HRC/4/18) in its work related to forced evictions, including in all its operational activities;
7. Make robust recommendations to and assist states on how their legislation and policies comply with international standards on evictions;

8. In addition to specific recommendations as elaborated in section 4 below, focus its activities on the right to adequate housing and protection against forced evictions, in the following priority areas:
 - i. Capacity building, including of its staff and management;
 - ii. Facilitating, compiling and aggregating data in the exchange of information and dissemination of tools between duty-bearers, right-holders, and other relevant stakeholders;
 - iii. Convening of, and consultation with, relevant actors;
9. Use and disseminate existing tools, such as the human rights indicators framework developed by OHCHR, its work with states, local authorities, civil society organizations, communities and other partners;
10. Take stock of its progress by regularly convening a forum for discussion, possibly on an annual basis;
11. Actively participate in the UN Development Group's Human Rights Mainstreaming Mechanism;
12. Engage with the humanitarian community and provide technical advice and expertise, notably through its chairmanship of the Geneva-based Housing, Land and Property Group of the Global Protection Cluster, to support durable solutions for refugees and internally displaced people with respect to urban planning, adequate housing and security of tenure in conflict and disaster-contexts;

2. Collaboration with OHCHR, human rights institutions and mechanisms

The participants convening for the International Expert Group Meeting on Forced Evictions formally recommends to UN-HABITAT the following:

1. Further engage and collaborate with OHCHR, including through the United Nations Housing Rights Programme;
2. Fully and meaningfully engage with human rights mechanisms, including Special Procedures, Treaty Bodies, the Universal Periodic Review (UPR) and the Human Rights Council, as well as regional human rights mechanisms;
3. Help strengthen the work of human rights mechanisms, in particular through the follow-up on recommendations of Special Procedures mandate-holders and treaty bodies;

3. Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT

The participants convening for the International Expert Group Meeting on Forced Evictions formally recommends to UN-HABITAT the following:

1. Carry out an evaluation in collaboration with former AGFE members and other interested parties to ascertain the reasons why the challenges that AGFE faced have outweighed its successes;
2. Consider the establishment of an independent mechanism to advise UN-HABITAT and, when appropriate, take action on issues related to the right to adequate housing and forced evictions within UN-HABITAT;

3. Carry out its General Assembly and UN-HABITAT Governing Council mandate in respect of the request to “establish an advisory group to monitor and identify, and, if so requested, to promote alternatives to unlawful evictions” (Resolution 19/5 adopted at the 58th session of the General Assembly on 9 May 2003, pt. 7);
4. Further define, in close collaboration with OHCHR, the constitution of an advisory mechanism on forced evictions based on inputs received at this Expert Group Meeting;
5. Stress that formal mechanisms to ensure the accountability of UN-HABITAT to recommendations received be established, and their implementation be monitored, in a time-bound manner;
6. Share the final resolutions or consensus-based recommendations of any future advisory mechanism with UN-HABITAT’s Governing Council;

4. Additional Strategies for Action

1. Recognizing the role of UN-HABITAT to establish preventive strategies, including early warning systems when necessary on forced evictions in select focus countries;
2. Within the context of the realization of the right to adequate housing, encourage and support States to develop and operationalize policies and programs that are explicitly focused on securing the tenure of vulnerable and marginalized groups who are excluded from formal land administration systems;
3. Stressing the urgency of UN-HABITAT to act as a facilitator with respect to the exchange of information and dissemination of tools among relevant stakeholders;
4. Acknowledging the work of OHCHR and others in developing and applying eviction impact assessments;

The participants convening for the International Expert Group Meeting on Forced Evictions formally recommends to UN-HABITAT the following:

1. Facilitating exchange of information as well as the collection and dissemination of tools amongst relevant stakeholders in order to support the capacities of multi-stakeholder groups at local and national levels;
2. Establish as standard practice a participatory approach towards ensuring legal security of tenure, including when engaging in slum upgrading, with an emphasis on supporting and building the capacities of local communities to be aware of their rights and be able to claim them;
3. Reinstate the security of tenure index in the State of the World’s Cities Report;
4. Demonstrate leadership in the area of forced evictions when focusing on specific country contexts (support to governments who have taken decisive steps towards promoting alternatives to forced evictions, and/or focus on countries where critical violations and inadequate policies are in place and therefore in greater need of policy support, technical assistance and capacity building);
5. Encourage the use of early warning methods based on information gathering/generation of indicators and fact finding to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur;

6. Provide funding and technical support for alternatives to eviction, possibly through the creation of a Global Fund for alternatives to forced evictions;
7. In situations of forced evictions, in particular the practice of forced mass evictions, adopt a proactive approach in the face of communities threatened by evictions by encouraging States to consider alternatives, before displacement becomes the only option, and by mobilizing other UN agencies and development partners to support alternatives to eviction;
8. Facilitate dialogue in land disputes between government, private interests and third parties and affected communities within a human rights framework;
9. Propose, assess and disseminate methods and instruments that would discourage the beneficiaries of forced eviction processes;
10. Develop and set up a monitoring system for forced evictions;
11. Encourage an understanding of the issue of compensation, for all those affected by evictions, as but one component of the larger framework of reparations as a matter of law (A/RES/60/147);
12. Adopt an approach to the evaluation and assessment of the impact of forced evictions that takes into consideration existing evaluation methodologies, including those quantifying victims/affected persons/households/communities' losses and costs, as well as addressing the material and non-material losses incurred in forced eviction processes;
13. Continue its work on enumerations through committing resources to implement pilot projects in cities that conduct enumerations and impact assessments and effectively use such analysis to promote alternatives to forced evictions.

./.

Participants					
#	Last Name	First Name	Position	Organization/Institution	E-mail
1	Abisai	Nancy	Country Program Officer	Centre on Housing Rights and Evictions	nancy@cohre.org
2	Agum	Pamela	Programme Officer	Eastern Africa Collaboration for Economic, Social and Cultural Rights	po@eacornet.org
3	Bagasao	Fides	Regional Organizer for Southeast Asia	Huariou Commission	fides_bagasao@yahoo.com
4	Baysal	Cihan Uzuncarsili	Coordinator	Sulukule Platform - Istanbul, Kucukcekmece-Ayazma Tenants' Association	cihanbaysal@yahoo.com
5	Bugalski	Natalie	Independent consultant		natalie_bugalski@gmail.com
6	Burrows	Bridget	Regional Slum Campaigner	Amnesty International Kenya	Bridget.Burrows@amnesty.org
7	Corkery	Allison	Research Fellow	Centre for Economic and Social Rights(CESR)	acorkery@cesr.org
8	Davies	Mike	IAI Convenor – Southern Africa	International Alliance of Inhabitants	iai.southernafrica@inhabitants.org
9	Farha	Leilani	Executive Director	Centre for Equality Rights in Accommodation (CERA)	leilani@equalityrights.org
10	Fernandes	Edesio	Legal consultant and scholar	DPU Associates; Lincoln Institute of Land Policy	edesiofernandes@compuserve.com
11	Gelbspan	Thea	Programme Officer	International Network for Economic, Social and Cultural Rights	tgelbspan@escr-net.org
12	Hasan	Arif	Chairperson	Urban Resource Centre (URC), Karachi Asian Coalition for Housing Rights (ACHR)	arifhasan@cyber.net.pk
13	Jonsson	Urban	Independent Expert		urban@urbanjonsson.com
14	Kamaru	Antony	Coordinator – Advocacy, Governance and Community Partnerships Programme	Kituo Cha Sheria (The Centre for Legal Empowerment), Kenya	kamaru@kituochasheria.or.ke
15	Kanyua	Priscila	Executive Director	Kituo Cha Sheria (The Centre for Legal Empowerment), Kenya	nyokabi@kituochasheria.or.ke
16	Kodhek	Esther	Director - Africa	COHRE	esther@cohre.org
17	Kothari	Miloon	Former Special Rapporteur on Adequate Housing, UN Human Rights Council	Housing and Land Rights Network, India	miloon.kothari@gmail.com
18	Lamba	Davinder	President	Habitat International Coalition	davinderlamba@gmail.com
19	Lemee	Annick	Office Director for the Mayor of Bobigny	Bobigny, France	djamel.sandid@ville-bobigny.fr
20	Levitt	Joanna	Executive Director	International Accountability Project	joanna@accountabilityproject.org
21	Makokha	Eric	Chief Executive Officer	Shelter Forum	eric.makokha@shelterforum.or.ke
22	Matheka	Margret	Senior Program Officer	Pamoja Trust	mmatheka2002@yahoo.com
23	McCallin	Barbara	Senior Advisor on housing, land and property	Internal Displacement Monitoring Centre, Norwegian Refugee Council	barbara.mccallin@nrc.ch
24	Molokoane	Rose	Coordinator	Shack Dwellers International (SDI)	rose@utshani.org.za , wilma@sdinet.org
25	Nyang'aya	Justus	Country Director	Amnesty International Kenya	justus.nyangaya@amnesty.org
26	Ohaeri	Victoria	Program Coordinator	Social and Economic Rights Action Center (SERAC)	vikkytims@yahoo.co.uk , Victoria@serac.org
27	Opiata	Odindo	Director	Economic and Social Rights Centre	odindo@hakijamii.com
28	Osorio	Leticia	Human Rights Programme Officer for Brazil	The Ford Foundation	ticia.osorio@gmail.com
29	Ottolini	Cesare	Coordinator	International Alliance of Inhabitants	cesare.ottolini@libero.it
30	Patel	Sheela	Director	Society for the Promotion of Area Resource Centers (SPARC)	sparc1@vsnl.com , sparcssns@gmail.com
31	Peyge	Catherine	Mayor	Bobigny, France	catherine.peyge@ville-bobigny.fr
32	Pred	David	Executive Director	Bridges Across Borders Cambodia	david@babcambodia.org , davidpred@gmail.com
33	Schechla	Joseph	Housing and Land Rights Network Middle East and North Africa Coordinator	Habitat International Coalition	jschechla@hic-mena.org
34	Schliel	Ryan	Program Manager	WITNESS	ryans@witness.org
35	Sivieude	Marceau	Africa Director	International Federation for Human Rights (FIDH)	msivieude@fidh.org
36	Smolka	Martim	Senior Fellow and Director of the Latin America and the Caribbean Program	Lincoln Institute of Land Policy	mamolka@lincolninst.edu
37	Sugranyes	Ana	General Secretary	Habitat International Coalition	general_secretary@hic-net.org , asugranyes@gmail.com
38	van Eerd	Maartje	Housing and Social Development Expert	Institute for Housing and Urban Development Studies (IHS)	m.vaneerd@ihs.nl