



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: HOUSING (2013-3)

The Office of the High Commissioner for Human Rights presents its compliments to the Permanent Missions to the United Nations Office in Geneva and has the honour to transmit the attached *Questionnaire on Security of Tenure*, which was elaborated by 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, Raquel Rolnik, pursuant to Human Rights Council resolution 15/8.

The Office of the High Commissioner for Human Rights would be grateful if this letter could be transmitted to relevant authorities, inviting all submissions **no later than 3 June 2013**. Unless specifically requested otherwise, all submissions will be posted on the webpage of the Special Rapporteur.

The Office of the High Commissioner for Human Rights avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office in Geneva the assurance of its highest consideration.

A handwritten signature in black ink, appearing to be 'U.S.' or similar initials.

22 March 2013



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Mandate of the Special Rapporteur on the right to adequate housing

I. Objectives and scope of this questionnaire

This questionnaire is designed primarily to obtain information from Governments for the Special Rapporteur on adequate housing's ongoing **study on security of tenure**.¹ Specifically, it will inform the Special Rapporteur's final report to the Human Rights Council (to be presented at the 25th session in March 2014) and related guidance.

The Special Rapporteur has dedicated her last report to the Human Rights Council (A/HRC/22/46) to mapping and framing issues of security of tenure. In 2013, she is continuing her study on security of tenure with a **focus on security of tenure for urban poor and the most vulnerable, including questions related to informal settlements**. The Special Rapporteur will present specific guidance on these issues in her final report to the Council, based notably on responses to the present questionnaire and further consultations with member States.

This questionnaire will also inform the **Special Rapporteur's report to the General Assembly's 68th session**. Her report will focus on policies and programmes aimed at promoting forms of tenure other than individual freehold (such as rental and communal forms of tenure, including, for example, subsidies for rental housing construction).

The Special Rapporteur is particularly interested in learning about **practices** that secure tenure for urban poor.

II. Submission of Responses

Word limit and supporting documents: Kindly limit your responses to 2,500 words maximum. Please identify, and where possible provide copies or weblink of any law, regulation, policy, programme, and document that support your answers to this questionnaire.

Languages of submission: Due to limited capacity for translation, we kindly request that you submit your answers in English, Spanish or French.

Address: Responses should be sent preferably via the email tenureproject@ohchr.org or in hard copy to:

UN Special Rapporteur on adequate housing
UNOG – OHCHR
CH – 1211 Geneva 10
Telefax: +41 22 917 90 06

Deadline: Please submit your response no later than 3 June 2013.

¹ See for more on the study and related reports and research papers:
<http://www.ohchr.org/EN/Issues/Housing/Pages/StudyOnSecurityOfTenure.aspx>



For any question on this questionnaire or the study on security of tenure, please contact the Special Rapporteur through her assistant at the Office of the High Commissioner for Human Rights, Ms. Laure-Anne Courdesse (lcourdesse@ohchr.org; +41 22 917 93 68).

III. Questionnaire

Definitions:

- For the purpose of this questionnaire, **tenure** is understood as the set of relationships with respect to housing and land, established through statutory law, or customary, informal or hybrid arrangements. Tenure takes a variety of forms, including but not limited to rental, owner-occupier, emergency housing and informal settlements.
- **Security of tenure** is understood as being either of land or of housing/the physical structure, for the sole purpose of housing, not for other purposes such as agriculture/farming.
- **Informal settlements** are understood as encompassing all types of self-made, spontaneous, self-managed and unplanned settlement and housing arrangements, initiated by urban poor themselves. The focus of this questionnaire is on *urban* informal settlements.

Legal security of tenure, including protection from forced eviction:

1. Are there laws/regulations recognizing or ensuring legal security of tenure for all the population, and/or for specific individuals or groups?
 - Does national legislation (or legislative proposals) spell out various forms of tenure that can ensure secure housing or land (such as tenancy, individual or collective ownership, limited rights to use)? Please list and explain those forms of tenure protected in law
2. Are there laws or regulations offering protection from forced eviction or involuntary resettlement? Describe briefly the content of the laws/regulations.
3. Which groups/individuals does the legislation mentioned in questions 1. and 2. protect? For instance:
 - Tenants
 - Informal settlers
 - Those with mortgage defaults
 - Other groups mentioned in question 4

Data on those with insecure tenure:

4. Is there any data or estimated figure for the number of those with insecurity of tenure? For instance:
 - households living in informal settlements
 - minorities living in informal settlements (e.g. Roma)
 - internally displaced persons



- undocumented migrants, refugees or asylum seekers
- households that were evicted or are under eviction orders due to mortgage default

Urban poor living in informal arrangements (in particular informal settlements):

5. What kind of tenure rights are foreseen or recognized in legal or administrative instruments for those informally occupying land or housing (e.g. 'temporary permits,' 'right to possession', 'leasehold rights over a definite or indefinite period', etc.)?
 - Can informal settlers accrue rights to their land or housing over time (e.g. through 'adverse possession')? Please cite relevant regulations and instruments.
 - Are there conflicting claims between formal (private and public) owners of the land and people having informally settled on that same land, or conflicts between informal settlers and environmental or planning laws/regulations? Please refer to regulations and administrative and judicial case law addressing those conflicts, if available.
6. Are there any policy, project, or programme in place or being developed to recognize, record, register or regularize tenure rights of urban poor living in informal tenure arrangements, including in informal settlements?
 - Do these policies/projects/programmes include "slum upgrading" or other *in-situ* urbanization investments?
 - What have been the results of such policies/programmes? For instance, number of households who have been regularized/whose rights were registered; types of tenure rights acquired after regularization (e.g. individual ownership; long-term formal rental; collective ownership); etc.
 - Provide information on private/community initiatives aiming at regularizing tenure rights of informal settlers which are supported by the Government.
7. Is there any land reform programme or policy in place or being developed (for instance, land management systems, changing land regimes)? Does it include specific provisions or processes to recognize and register the rights of urban poor, in particular those living in informal settlements?

For those States with international development aid agencies/programmes:

8. Does the State development agency/programme finance and support the development and implementation of policies/projects/programmes that explicitly recognize, record, register or regularize the tenure rights of urban poor, in particular those living in informal settlements? Please refer to relevant initiatives and programmes.

Urban planning and housing policies:



9. Do urban planning laws/regulations, at national or local level, include pro-poor land use instruments, such as inclusionary zoning, quota for social housing in residential developments or other?
10. Please provide information on any housing policies or programmes aimed at promoting forms of tenure alternative to individual freehold, such as rental, communal or cooperative tenure.