

## **Recommendations on Security of Tenure for the Urban Poor**

### **General Principles**

1. States have an immediate obligation to ensure that all persons possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats and that provides a foundation for the progressive realization of all aspects of the right to adequate housing.
2. Security of tenure is not a one-size fits all concept. A variety of tenure forms and systems can ensure secure, efficient and sustainable access to land and housing in different contexts.
3. The social function of land and housing should be recognized and promoted in order to realize the right to adequate housing. The social function of land should not be undermined by its financial value.
4. Urban poor individuals and communities should organize and prepare to actively participate in measures to strengthen their tenure security and advocate for States to respect, protect and fulfil their right to adequate housing.
5. Fundamental human rights principles should be embedded in all measures to strengthen and protect security of tenure, including a) non-discrimination and equality; b) the obligation of progressive realization, making use of maximum available resources and abstaining from adopting deliberate retrogressive measures; c) and international assistance and cooperation; d) prioritizing the most vulnerable and marginalized; e) access to information; f) active, free and meaningful participation; and g) accountability.

### **OPERATIONAL GUIDANCE ONE**

Non-discrimination on the basis of tenure status must be guaranteed and protected in law, policy and practice. This guarantee must apply to all forms of tenure. Non-discrimination on the basis of tenure status must be guaranteed in the context of inter alia:

- (a) Access to basic services and facilities;
- (b) Access to social security;
- (c) The collection and presentation of official data;
- (d) Land administration programmes;

- (e) Housing policies;
- (f) Urban planning;
- (g) Land acquisition and use for public purposes; and
- (h) Access to shelter and other forms of humanitarian assistance.

## **OPERATIONAL GUIDANCE TWO**

States should promote, protect and strengthen a variety of tenure forms, including those deriving from customary, religious, statutory and hybrid tenure systems, through legislation, policies and programmes. All such laws, policies and programmes should be developed on the basis of human rights impact assessments, which identify and prioritize the tenure arrangements of the most vulnerable and marginalized. The following types of tenure, amongst others, should be promoted, strengthened and protected, as appropriate in the given context:

- (a) Adverse possession;
- (b) Use rights;
- (c) Rental;
- (d) Ownership; and
- (e) Collective tenure arrangements.

## **OPERATIONAL GUIDANCE THREE**

States must recognize and secure existing tenure arrangements of those using land and housing to realize their right to adequate housing, without discrimination of any kind and with priority given to the most vulnerable and marginalized. States should take the following measures:

- (a) Conduct citywide assessments of tenure arrangements and mapping of insecure settlements and population groups;
- (b) Develop citywide strategies for securing tenure and upgrading settlements on different categories of land;
- (c) Review and reform urban plans and regulations in order to integrate settlements;

- (d) Adopt and implement a human rights-compliant resettlement policy to be applied where in situ solutions are not possible;
- (e) Facilitate participatory settlement mapping, enumerations and tenure registration;
- (f) Establish a fair and effective land dispute resolution mechanism;
- (g) States should allocate funds to relevant ministries, municipalities and local governments for the implementation of these measures.

#### **OPERATIONAL GUIDANCE FOUR**

States should promote the social function of land and housing in order to progressively realize the right to adequate housing and, in particular, to ensure access to well-located housing for the urban poor. States should take, inter alia, the following measures:

- (a) Conduct citywide audits of vacant and underutilized land, housing and buildings and, in parallel;
- (b) Conduct assessments of the spatial needs to house the urban poor, taking into account current and anticipated trends;
- (c) Allocate available public land for the provision of low-income housing;
- (d) Adopt measures to combat speculation and underutilization of private land, housing and buildings;
- (e) Adopt inclusive urban planning processes and regulations;
- (f) Adopt measures to regulate and stimulate the low-income rental market and collective forms of tenure; and
- (g) Adopt measures to regulate the housing finance market and financial institutions.

#### **OPERATIONAL GUIDANCE FIVE**

States must not undermine security of tenure through regulations aimed at protecting public health and safety or the environment. In situ solutions should be found whenever it is possible to: (a) mitigate and manage risks of disaster and threats to public health and safety; or (b) balance environmental protection and security of tenure; except when inhabitants choose to exercise their right to resettlement.

## **OPERATIONAL GUIDANCE SIX**

States must promote, strengthen and protect women's security of tenure, regardless of their age, marital, civil or social status, and independent of their relationships with male household or community members, with the aim of achieving de jure and de facto gender equality in the enjoyment of the right to adequate housing.

## **OPERATIONAL GUIDANCE SEVEN**

Business enterprises should take all possible steps to ensure there are no adverse impacts on security of tenure as a result of or in connection with their activities, investments or business dealings. Businesses should act promptly to address any adverse impacts on security of tenure that occur, including by taking all possible steps to ensure that affected persons receive an effective remedy.

## **OPERATIONAL GUIDANCE EIGHT**

Multilateral and bilateral development agencies should support States lacking sufficient resources to take all necessary measures to strengthen the security of tenure of the urban poor and promote equitable access to urban housing and land, in order to realize the right to adequate housing. Development agencies should ensure that their financing operations, programmes and projects do not undermine security of tenure.

## **OPERATIONAL GUIDANCE NINE**

States must ensure access to effective remedy for violations of the right to adequate housing, due to, inter alia:

- (a) Discrimination on the basis of tenure status, including multiple discrimination;
- (b) Discrimination on the basis of any prohibited ground in the enjoyment of security of tenure;
- (c) An ongoing failure of the State to take appropriate steps to the maximum of its available resources to secure the tenure of the urban poor; and
- (d) The undermining of security of tenure including through forced eviction.

Tenure status should not pose a barrier to people in accessing an effective remedy for the violation of human rights.

#### **OPERATIONAL GUIDANCE TEN**

States and other relevant actors must be accountable to the urban poor in taking measures, in accordance with the present recommendations, to strengthen and protect their security of tenure and promote equitable and secure access to urban housing and land. In order to ensure accountability in the fulfilment of human rights obligations, States should:

- (a) Undertake all necessary measures in a timely and progressive manner making use of the maximum available resources;
- (b) Ensure public access to information and transparency with regard to all decision-making, including reasons for decisions;
- (c) Ensure active, free, informed and meaningful consultation and participation of all people affected by laws, policies, programs and other measures adopted;
- (d) Be answerable to the public for all decisions, laws, policies, programs and use of public funds and resources;
- (e) Develop contextually appropriate indicators and benchmarks against which to regularly measure progress, including both improvements and regressions, and publically disclose all periodic evaluations;
- (f) Take timely remedial action if any decisions, laws, policies or programs undermine security of tenure; and
- (g) Hold to account any actor, including government officials, responsible for or complicit in human rights abuses that occur in the process of carrying out these measures.