



Guiding principles
on security of tenure
for the urban poor



Security of tenure is understood as a set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one's home in security, peace and dignity. It is an integral part of the right to adequate housing and a necessary ingredient for the enjoyment of many other civil, cultural, economic, political and social rights. All persons should possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats.

The plight of the urban poor presents one of the most pressing challenges to security of tenure, especially in an increasingly urbanized world. These principles aim to provide guidance to States and other actors to address this challenge in order to ensure adequate housing for poor and vulnerable people in urban and peri-urban areas.

Underlying these guiding principles is a presumption that individuals and communities occupying land or property to fulfil their right to adequate housing, and who have no other adequate option, have legitimate tenure rights that should be secured and protected. The concept of legitimate tenure rights extends beyond mainstream notions of private ownership and includes multiple tenure forms deriving from a variety of tenure systems.

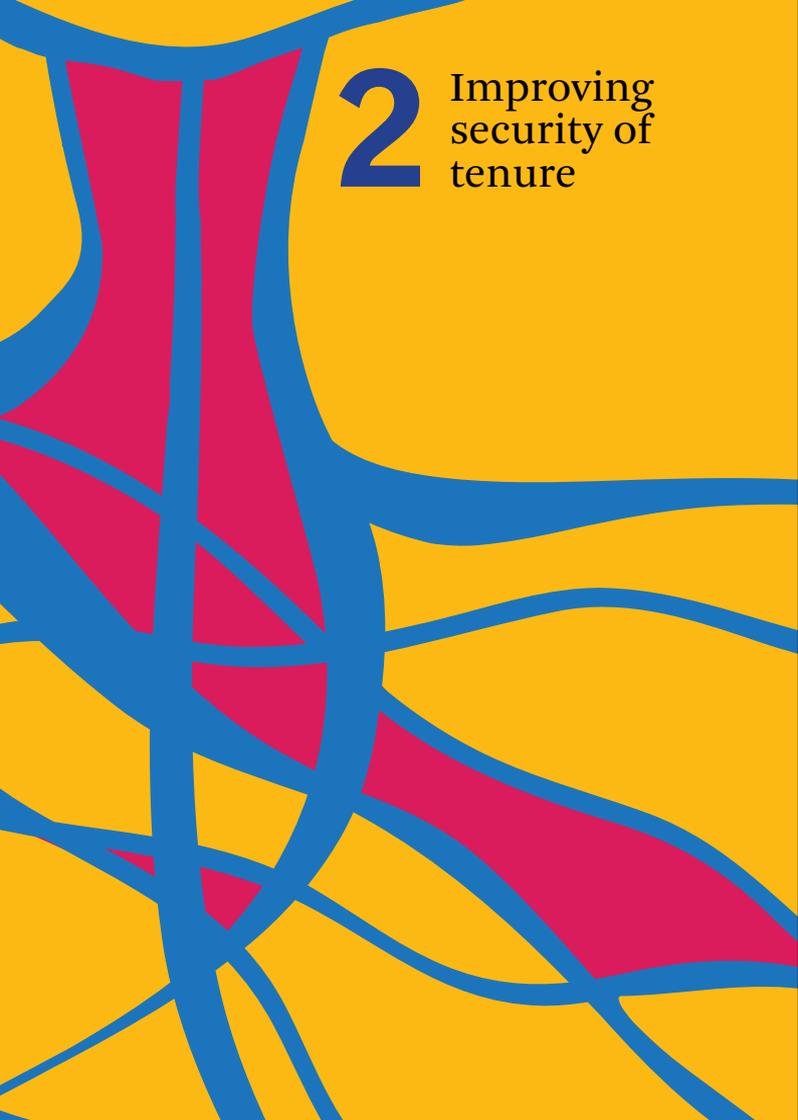
These guiding principles are part of the thematic report on security of tenure for the urban poor presented by the Special Rapporteur on adequate housing, Raquel Rolnik, at the UN Human Rights Council, 25th session, March 2014. The report (A/HRC/25/54) is available at <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx> and at www.righttohousing.org. The Human Rights Council adopted a resolution (A/HRC/25/L18) including references to security of tenure, the guiding principles and the Special Rapporteur's report at the end of its 25th session.



1 Strengthening diverse tenure forms

States should promote, protect and strengthen a variety of tenure forms, including those deriving from statutory, customary, religious and hybrid tenure systems. All relevant 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, among others, should be promoted, strengthened and protected, as appropriate in the given context:

- Possession rights;
- Use rights;
- Rental;
- Freehold; and
- Collective arrangements.



2 Improving security of tenure

In order to improve security of tenure, especially for vulnerable and marginalized persons and groups living in urban poor settlements, States, including relevant authorities, should take the following measures:

- Conduct citywide assessments of tenure arrangements;
- Identify insecure settlements and population groups, including the homeless;
- Develop citywide strategies for securing tenure and upgrading settlements on different categories of land and with different tenure arrangements;
- Review and reform urban plans and regulations in order to integrate settlements;
- Adopt and implement a human rights-compliant resettlement policy to be applied where in situ solutions are not possible;
- Facilitate participatory settlement mapping, enumerations and tenure registration;
- Establish fair and effective land dispute resolution mechanisms;
- Allocate sufficient funds to ministries, municipalities and local governments for the implementation of these measures; and
- Adopt or revise legislation to recognize and protect multiple tenure arrangements.



3 Prioritizing in situ solutions

Tenure should be secured in situ unless there are exceptional circumstances that justify eviction consistent with international human rights law. Regulations aimed at protecting public health and safety and the environment or at mitigating risk for the population should not be used as an excuse to undermine security of tenure. In situ solutions should be found whenever it is possible to:

- mitigate and manage risks of disaster and threats to public health and safety; or
- balance environmental protection and security of tenure; except when inhabitants choose to exercise their right to resettlement.

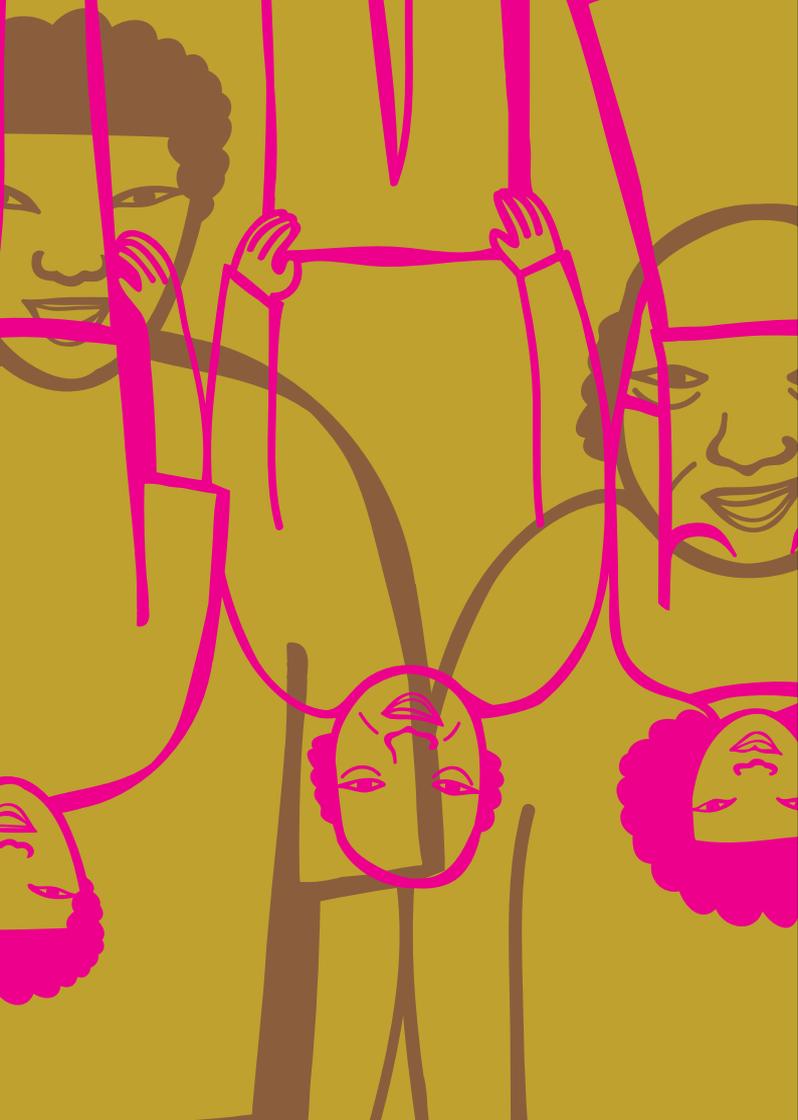


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Promoting the social function of property

Property has a vital social function including adequate housing of the urban poor. States should balance property rights with the social function of property in designing and implementing housing and other relevant policies. In particular, States, including relevant authorities, should promote access to secure and well-located housing for the urban poor through, inter alia, the following measures:

- Conduct citywide audits of vacant and underutilized land, housing and buildings;
- Conduct assessments of spatial needs to house the urban poor, including homeless persons, taking into account current and anticipated trends;
- Allocate available public land for the provision of low-income housing;
- Adopt measures to combat speculation and underutilization of private land, housing and buildings;
- Adopt inclusive urban planning strategies and regulations;
- Adopt measures to regulate and stimulate the low-income rental market and collective forms of tenure; and
- Adopt measures to regulate the housing finance market and financial institutions.



5 Combating discrimination on the basis of tenure

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:

- Access to basic services and facilities;
- Access to social security;
- The collection and presentation of official data;
- Land administration programmes;
- Housing legislation and policies;
- Urban planning;
- Land acquisition and use for public purposes;
- Police procedures; and
- Humanitarian assistance, including access to shelter.



6 Promoting women's security of tenure

Both de jure and de facto gender equality are essential to the enjoyment of the right to adequate housing. In this regard, States must strengthen and protect women's security of tenure, regardless of age, marital, civil or social status, and independent of their relationships with male household or community members.



7 Respecting security of tenure in business activities

Business enterprises should take all relevant steps to ensure that:

- there are no adverse impacts on security of tenure as a result of or in connection with their activities or business relationships; and
- any adverse impacts are addressed, including through the provision of remedies to affected persons. Business enterprises should ensure transparent, free and fair negotiations regarding any transfer or modification of tenure rights with full respect for the right of people or communities to accept or reject offers.



8 Strengthening security of tenure in development cooperation

Multilateral and bilateral development agencies should ensure that their operations and projects promote and do not undermine security of tenure, including by adopting binding safeguard policies that aim to give effect to the right to adequate housing. Such agencies should support States lacking sufficient resources to take all necessary measures to strengthen security of tenure of the urban poor.



9 Empowering the urban poor and holding States accountable

Urban poor individuals and communities are essential actors in strengthening tenure security. States should be accountable to the urban poor for the implementation of these guiding principles by, inter alia:

- Making tenure-related information public and accessible to all in a timely manner;
- Ensuring transparency of all decision-making, including reasons for decisions;
- Guaranteeing free, informed and meaningful participation of the urban poor in the design and implementation of measures to secure their tenure status;
- Developing contextually appropriate indicators and benchmarks against which to measure progress and regressions; and
- Periodic reporting of progress at national and international levels.



10 Ensuring access to justice

Tenure status should not pose a barrier to people in accessing an effective remedy for the violation of human rights. States must ensure access to effective administrative and /or judicial remedies for violations of the right to adequate housing, due to, inter alia:

- Discrimination on the basis of tenure status, including multiple discrimination;
- Discrimination on the basis of any prohibited ground in the enjoyment of security of tenure;
- Failure to adopt appropriate and timely measures to address tenure insecurity of the urban poor; and
- The undermining of security of tenure including through forced eviction.

UNITED NATIONS SPECIAL RAPORTEUR 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

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