



## Генеральная Ассамблея

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**Совет по правам человека****Сорок третья сессия**

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Пункт 3 повестки дня

**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

**Визит в Нигерию**

**Доклад Специального докладчика по вопросу о достаточном  
жилище как компоненте права на достаточный жизненный  
уровень, а также о праве на недискриминацию в этом контексте\***

*Резюме*

В докладе рассматривается положение с соблюдением в Нигерии права на жилище на основе информации, полученной Специальным докладчиком по вопросу о достаточном жилище как компоненте права на достаточный жизненный уровень, а также о праве на недискриминацию в этом контексте в ходе ее визита в страну с 13 по 27 сентября 2019 года.

Специальный докладчик отмечает, что, несмотря на значительный экономический рост, проблема нищеты носит острый характер, неравенство усиливается, а миллионы нигерийцев, которые не имеют доступа к официальному жилью, по-прежнему живут в крайне неудовлетворительных условиях. В результате этого растет количество неформальных поселений, жители которых не имеют доступа к самым базовым услугам и сталкиваются с проблемой принудительного выселения. В то же время элитное жилье пустует. Специальный докладчик обращает особое внимание на дискриминацию и криминализацию, жертвами которых становятся некоторые группы населения, включая женщин, лесбиянок, геев, бисексуалов и трансгендеров, а также инвалидов и лиц, инфицированных ВИЧ/больных СПИДом. Специальный докладчик призывает прекратить принудительные выселения, провести масштабную налоговую реформу, которая позволит увеличить государственные доходы и решить проблему неравенства, а также разработать основанную на правах человека жилищную стратегию, ориентированную в первую очередь на наиболее уязвимые группы общества.

\* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.



## Annex

### **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, on her visit to Nigeria**

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## I. Introduction

1. 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, visited Nigeria from 13 to 27 September 2019, at the invitation of the Government. The purpose of her visit was to examine the realization of the right to adequate housing through legislation, policies and programmes and to identify positive outcomes and challenges for the enjoyment of the right to adequate housing.
2. The Special Rapporteur had the opportunity to visit three major cities: Abuja, Lagos and Port Harcourt. She visited a social housing project and numerous informal settlements where she met community representatives, women, indigenous persons, persons in homelessness, persons with disabilities and internally displaced persons, among others. She also met government officials, academics, representatives of civil society organizations, representatives of the private and financial sector and other experts.
3. Nigeria is a lower-middle income country<sup>1</sup> that has experienced significant economic growth in recent decades. However, housing conditions in Nigeria, particularly for those living in poverty, are grossly inadequate. The Special Rapporteur observed inhumane and insufferable housing conditions, unacceptable in the twenty-first century, particularly in an oil-producing country that has consistently shown strong economic growth.
4. Generally, reliable data on the housing situation is scarce and outdated. In 2009, the Federal Ministry of Power, Works and Housing estimated that 69 per cent of the urban population of Nigeria was living in “slums” (hereinafter referred to as informal settlements)<sup>2</sup> many of which lack basic services like potable water, sanitation, electricity, garbage collection and paved roads. According to the World Bank, 57 million Nigerians lacked access to safe water and over 130 million were without access to adequate sanitation.<sup>3</sup>

## II. Legal framework

5. Nigeria acceded to the International Covenant on Economic, Social and Cultural Rights on 29 July 1993. In its article 11 (1), the Covenant proclaims the right to housing as a component of the right to an adequate standard of living, and the right to housing is now understood as a free-standing right. The right to adequate housing under international human rights law entails more than four walls and a roof and must be understood to mean the right to live in a place that provides security, peace and dignity.<sup>4</sup> Nigeria, as a party to the Covenant, must also ensure that all components of the right to adequate housing are enjoyed by all, including in respect of security of tenure, access to services and infrastructure, affordability, habitability, accessibility, location in proximity to services such as health care, schools and employment options, and cultural adequacy.<sup>5</sup> Nigeria has not ratified the Optional Protocol to the Covenant, which provides a mechanism for those who believe their right to housing has been violated to submit individual complaints to the Committee on Economic, Social and Cultural Rights once having exhausted domestic remedies.
6. Nigeria ratified the African Charter on Human and Peoples’ Rights on 22 July 1983. The Charter does not contain an explicit reference to the right to adequate housing, but the jurisprudence of the African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights has protected it indirectly through cases related to other

<sup>1</sup> <https://data.worldbank.org/country/nigeria>.

<sup>2</sup> Cited in United Nations Human Settlements Programme (UN-Habitat), “Habitat country programme document Nigeria 2017–2021”, p. 14.

<sup>3</sup> World Bank, *A Wake Up Call: Nigeria Water Supply, Sanitation, and Hygiene Poverty Diagnostic* (Washington, D.C., 2017), p. 1.

<sup>4</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para. 7.

<sup>5</sup> Ibid.

human rights contained in the Charter, such as the right to privacy, the right to property and peaceful enjoyment of possessions and the right to protection of the family.<sup>6</sup>

7. Nigeria is party to the Revised Treaty of the Economic Community of West African States, by which the Community Court of Justice was established. Since 2005, the Court's jurisdiction has extended to human rights cases.<sup>7</sup> Numerous cases of forced evictions in Nigeria have reached the Court based on violations of the African Charter on Human and Peoples' Rights.

8. The Constitution of Nigeria provides, in section 16 (2) (d), that the State shall direct its policy towards ensuring that suitable and adequate shelter is provided for all citizens. In section 6 (6) (c), however, the Constitution states that the provision is not justiciable, unlike the civil and political rights contained therein. As a result, the constitutional protection of the right to housing has developed through other human rights, such as the prohibition against inhumane and degrading treatment.<sup>8</sup>

9. National legislation that is particularly relevant for the right to housing includes the 1978 Land Use Act, the 2019 National Housing Fund Act and state-level legislation regulating tenancy.

### III. Economic growth, corruption and inequality

10. Nigeria has the biggest economy in Africa and its gross domestic product (GDP) is ranked twenty-ninth in the world, placing Nigeria between Austria and the United Arab Emirates.<sup>9</sup> Its GDP per capita (2,366 US\$) is similar to that of India (2,309 US\$) and higher than that of most African countries.<sup>10</sup>

11. However, due to extreme levels of inequality and insufficient distribution policies, economic growth has not reduced poverty levels in Nigeria. The Brookings Institute estimated in October 2019 that almost 95 million people (48 per cent of the population) are living in extreme poverty (with an income of 1.9 US\$ per day or less), a number that is bigger than in any other country and growing by four persons every minute.<sup>11</sup> According to World Bank data, the number of persons with a daily income of less than 1.9 US\$ grew from 57.2 million in 1992 to 84.8 million in 2009.<sup>12</sup> While poverty continues to grow, the number of very wealthy persons has also increased: between 2004 and 2010, the number of millionaires in the country rose by 44 per cent.<sup>13</sup> Oxfam calculated in 2017 that the wealth of the five richest Nigerians could end extreme poverty in Nigeria.<sup>14</sup>

12. Among the main causes of extreme inequality are: the misallocation of public resources, a pervasive culture of corruption (an estimated 20 trillion US\$ was stolen from the treasury between 1960 and 2005 by public officials<sup>15</sup>), the "astronomical" cost of the public administration due to excessive staff, salaries and benefits, and, generally, the lack of political commitment to fighting poverty. Crucially, the Nigerian tax system places the burden on poorer persons and companies, while big profitable corporations receive generous tax

<sup>6</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN-Habitat, "The right to adequate housing", fact sheet No. 21/Rev.1, p. 12.

<sup>7</sup> [http://prod.courtecawas.org/wp-content/uploads/2018/11/Supplementary\\_Protocol\\_ASP.10105\\_ENG.pdf](http://prod.courtecawas.org/wp-content/uploads/2018/11/Supplementary_Protocol_ASP.10105_ENG.pdf).

<sup>8</sup> See paras. 26–30 below on forced evictions.

<sup>9</sup> <http://worldpopulationreview.com/countries/countries-by-gdp>.

<sup>10</sup> Ibid.

<sup>11</sup> <https://worldpoverty.io/index.html>.

<sup>12</sup> <http://povertydata.worldbank.org/poverty/country/NGA>.

<sup>13</sup> [www.oxfam.org/en/press-releases/wealth-five-richest-men-nigeria-could-end-extreme-poverty-country-yet-5-million-face](http://www.oxfam.org/en/press-releases/wealth-five-richest-men-nigeria-could-end-extreme-poverty-country-yet-5-million-face).

<sup>14</sup> Ibid.

<sup>15</sup> Olusola Samuel Faboyede, Chinonye Okafor and Maxwell Prosper Onochie, "Economic and Financial Crimes Commission (EFCC) as a strategy for managing Nigerian external reserves for sustainable development", *IOSR Journal of Economics and Finance*, Vol. 1, No. 2, pp. 48–54.

incentives.<sup>16</sup> The impact of corruption is such that reducing it to the levels of “other peer countries” would boost annual economic growth by 0.5 to 1.5 per cent.<sup>17</sup>

13. Social expenditure – key to tackling inequality – is among the lowest in the world and, with only 6 per cent of registered corporate taxpayers currently active, tax revenue is far too small to address the critical needs of the country’s population.<sup>18</sup> The Government’s announced budget to be spent on housing projects for 2020, 60 billion Naira (165 million US\$),<sup>19</sup> amounts to approximately 0.04 per cent of GDP. Large amounts of illicit funds are widely reported to be diverted to the real estate sector as a means of money-laundering, despite prevention initiatives by the developers’ association and government agencies.<sup>20</sup>

14. The Government has taken steps to strengthen tax enforcement and combat corruption in tax offices, including by launching the Strategic Revenue Growth Initiative. However, a more ambitious and comprehensive reform is required according to the International Monetary Fund (IMF), which recommends increasing the tax-to-GDP ratio by at least 8 per cent in order to augment social spending.<sup>21</sup>

15. Under its international human rights law obligations, Nigeria is obliged to spend the maximum of its available resources towards the progressive realization of economic, social and cultural rights,<sup>22</sup> including the right to housing. This means, among other things, collecting and imposing taxes and preventing money gained through corrupt practices from landing in residential real estate or other assets held either domestically or internationally. Until Nigeria can multiply its public revenue through tax reform and greatly increase its social spending, it is not meeting this standard.

#### IV. A housing sector in crisis

16. The housing sector in Nigeria is in complete crisis. The Federal Mortgage Bank of Nigeria estimated in October 2018 that the country had a deficit of 22 million housing units.<sup>23</sup> This figure is steadily rising as urban populations continue to grow at alarming rates: according to the World Bank, the need for housing is increasing by 700,000 units every year, with the formal market providing only around 100,000 units per year.<sup>24</sup> Even if the unrealistic commitment to building 1 million housing units per year was fulfilled by the Government,<sup>25</sup> with housing needs growing at the current rate it would take 55 years to tackle the housing deficit.

17. There is currently no national housing action plan or strategy. According to interviews held with government officials during the visit, there is insufficient coordination and communication between federal and state governments.

18. One of the greatest challenges for the implementation of the right to housing is the extreme shortage of affordable housing. The cheapest houses built by private developers cost about 31,250 US\$ in Lagos and 15,600 US\$ outside Lagos (13 and 6 times the country’s GDP per capita). Instead of catering to the needs of the majority of the population, a large part of housing supply is concentrated in luxury houses.<sup>26</sup>

<sup>16</sup> OXFAM, *Inequality in Nigeria: Exploring the Drivers* (2017), pp. 5–6.

<sup>17</sup> International Monetary Fund (IMF), “Nigeria: selected issues”, IMF Country Report No. 19/93 (April 2019), p. 5.

<sup>18</sup> IMF, “Nigeria: mobilizing resources to invest in people” (3 April 2019).

<sup>19</sup> <http://africahousingnews.com/2019/10/24/housing-sector-to-get-n60-87-billion-allocation-in-2020-budget/>.

<sup>20</sup> [www.pressreader.com/nigeria/the-guardian-nigeria/20191014/281891595037524](http://www.pressreader.com/nigeria/the-guardian-nigeria/20191014/281891595037524).

<sup>21</sup> IMF, “Nigeria: mobilizing resources to invest in people”.

<sup>22</sup> International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

<sup>23</sup> <https://thenationonline.net/housing-deficit-now-22-million-says-fmbn/>.

<sup>24</sup> <http://documents.worldbank.org/curated/en/278041531299329812/pdf/Concept-Project-Information-Documents-Integrated-Safeguards-Data-Sheet-Nigeria-Affordable-Housing-Project-P165296.pdf>.

<sup>25</sup> <https://constructionreviewonline.com/2019/08/nigeria-to-deliver-one-million-affordable-houses-every-year/>.

<sup>26</sup> World Bank, *Nigeria: Developing Housing Finance* (Washington, D.C., 2016), p. 34.

19. Not only is purchasing a home in the private market unaffordable for most Nigerians, there are many other barriers hindering access to rented accommodation: supply is scarce, landlords require tenants to pay one to two years' rent in advance, discrimination by landlords affects single women, lesbian, gay, bisexual and transgender persons, persons living with HIV/AIDS and others, and no effective rent control or caps have been implemented. Landlord-tenant relations are loosely governed and state-level rent control laws and other legislation protecting the rights of tenants are frequently violated.<sup>27</sup>

20. Private sector housing developers target upper-income households; middle-, lower- and no-income households depend on government initiatives to build social or affordable housing. However, public efforts in this regard are manifestly insufficient given the ever-growing needs, with the housing deficit increasing by approximately 600,000 units per year.<sup>28</sup> On 23 October 2019, the Ministry of Power, Works and Housing announced that its budget would increase from 35 billion Naira (96 million US\$) in 2019 to 60 billion Naira (165 million US\$) in 2020.<sup>29</sup> This will allow for the construction of 2,383 housing units as part of the National Housing Programme in the nation's 36 states and the capital. This represents less than 0.5 per cent of the actual yearly increase in housing need and around 0.01 per cent of the current total housing deficit of 22 million units. Even when adding the yearly production of 100,000 housing units by private investors (which mostly target the upper-income minority in the country), the deficit will keep growing at a rate of almost half a million homes per year.

21. Another concern is that no government housing programme targets persons with no income or living in homelessness. The housing projects that were presented to the Special Rapporteur were aimed at public sector employees. While providing housing for government workers is commendable, a human rights-based approach to housing policy cannot ignore the needs of those who are unemployed (27 per cent of the population and 37 per cent of youth)<sup>30</sup> or those working in the informal sector (over 60 per cent of the economy).<sup>31</sup>

22. There is a consensus that the legal framework for land administration, especially the 1978 Land Use Act, is exacerbating the pressures on the housing sector. The Act vests excessive powers in state Governors, making it necessary for landholders to obtain the Governor's permission to transfer their landholding rights and creating bureaucratic obstacles and delays. Some of the Act's provisions are also incompatible with international standards: section 28, for example, gives Governors broad powers to grant a right of occupancy, but also to revoke it on the basis of "public purposes", which include the construction of oil pipelines, mining and the extraction of materials for use in building. The manner in which the Land Use Act has been used and implemented has had severe consequences for the enjoyment of the right to housing. The Special Rapporteur received many reports of Governors abusing their land administration powers, including by granting occupancy rights to family and friends and by defining "public purpose" in such a manner as to result in the forced eviction of impoverished communities in violation of international human rights law, including for luxury developments that often stand vacant. The Act also makes land title registration cumbersome and onerous.

23. It is well established that in Nigeria real estate is used as a convenient place to launder money gained through corrupt practices, to park excess capital and to provide financial security for the wealthy. Some argue that evidence of this can be found in the ongoing development of luxury units throughout the country, thousands of which sit empty.

24. The Special Rapporteur is not convinced that the federal and state governments fully appreciate the nature and extent of the crisis at hand. While the Government provided information on some new housing programmes, they are market-driven, based on public-

<sup>27</sup> Nasir Imam, "Nigeria: ineffective rent control laws in country", *Daily Trust* (2 May 2012).

<sup>28</sup> <http://documents.worldbank.org/curated/en/278041531299329812/pdf/Concept-Project-Information-Documents-Integrated-Safeguards-Data-Sheet-Nigeria-Affordable-Housing-Project-P165296.pdf>.

<sup>29</sup> <http://africahousingnews.com/2019/10/24/housing-sector-to-get-n60-87-billion-allocation-in-2020-budget/>.

<sup>30</sup> <https://tradingeconomics.com/nigeria/unemployment-rate>.

<sup>31</sup> Vivian Malta and others, "Informality and gender gaps going hand in hand", IMF Working Paper (May 2019), p. 18.

private partnerships, depend on private investment and are often abandoned midway or left vacant. Without robust public funding, transparency, the participation of rights holders and accountability mechanisms, housing programmes are unlikely to meet the needs of individuals and families with no or little income. Given their modest scale, existing programmes will hardly make a dent in the ever-growing housing needs. While officials agreed with the Special Rapporteur's overall assessment of the Nigerian housing sector, the urgency of this human rights crisis, which is resulting in human suffering and premature death due to grossly inadequate housing conditions for many Nigerians, seemed not to have registered. Many officials were at a loss as to what steps to take to resolve the housing crisis, stating that only international assistance would make a difference.

## V. Issues in focus

### A. Lack of data

25. One of the core obligations that States have regarding the right to housing, which they must fulfil immediately, is to ascertain the full extent of homelessness and inadequate housing.<sup>32</sup> Nevertheless, the Government acknowledges that it has no data regarding its homeless population, the number of persons living in informal settlements or the number of those lacking the basic conditions of adequate housing. The Government has also admitted that the lack of data is an impediment to the development and implementation of an effective housing policy. Without this information, there can be no accurate measure of progress or implementation of effective housing policies, or public accountability for the implementation of the right to housing at the local, state and federal levels. The last census dates to 2006 and is outdated. While the National Bureau of Statistics collects data every two to three years in conjunction with the World Bank, it does not compile housing statistics.

### B. Forced evictions

26. Under international law, forced evictions constitute a gross violation of human rights, including the right to housing. Evictions should be carried out only as a last resort, once all feasible alternatives have been explored, and those affected must be genuinely and meaningfully consulted at all stages. Legal remedies and legal aid should be provided to affected people who are seeking redress in court.<sup>33</sup> Where eviction is unavoidable, persons evicted should be given adequate notice and receive adequate compensation or adequate alternative housing. Evictions are contrary to human rights law where they render individuals homeless.<sup>34</sup> Although prohibited under international human rights law and binding on Nigeria, forced evictions have been practised systematically in the country. While the total number of individuals affected is difficult to calculate, the United Nations Human Settlements Programme (UN-Habitat) has estimated that over 2.3 million persons were evicted in Nigeria between 1995 and 2005,<sup>35</sup> and mass evictions have continued ever since.

27. Domestic jurisprudence has concluded that forced eviction – at least in the context of waterfront communities – is unconstitutional. The High Court of Lagos State held in 2017 that, in the absence of adequate notice or provision of alternative shelter, forced evictions violate the fundamental right to dignity and constitute cruel and inhuman treatment contrary to section 34 of the Constitution.

<sup>32</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para. 13.

<sup>33</sup> Ibid., general comment No. 7 (1997) on forced evictions.

<sup>34</sup> Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 43).

<sup>35</sup> UN-Habitat, *Forced Evictions – Towards Solutions?: Second Report of the Advisory Group on Forced Evictions to the Executive Director of UN-Habitat*, (Nairobi, 2007), p. 9.

28. Despite this, hundreds of thousands of Nigerians, most of them women and children, have been evicted from their homes, often experiencing brutal force (including the lethal use of firearms, arson, arbitrary arrest and assault), which has resulted in deaths, injuries, miscarriages and stillbirths and inflicted unimaginable suffering and trauma among the most vulnerable parts of Nigerian society. Most evictions occur with little or no notice, with no consultation with the communities, with inadequate or no compensation and/or resettlement and result in homelessness and further impoverishment. In many instances, evictees relocate to other informal settlements, where they are evicted a second or third time, and then still face the continual threat of eviction.<sup>36</sup>

29. A resident of an informal settlement in Port Harcourt told the Special Rapporteur: “If you remove the roof over my head, you do not need to kill me, I am already dead.” Forced evictions reinforce a cycle of social and economic vulnerability: the urban poor who are subjected to evictions often lose all of their belongings and are forced to relocate, sometimes to distant areas, losing access to their livelihoods, families, churches, mosques and other support networks. Even though evictions are often justified by the Government as “slum upgrading” or “development” projects, they consistently fail to benefit vulnerable Nigerians and seem to serve mainly the interests of private investors.

30. The Special Rapporteur met with members of communities who had undergone forced evictions, some of them repeatedly: (a) in Lagos: Ilasan, Ikota (where Maroko residents have been displaced), Makoko and Oniru Estate, including Otodo Gbame evictees, the Agoegun in Bariga; (b) in Port Harcourt: Agip/UST Waterfront, Nejmanze, Abonnema Wharf, Ogoniland, Echue and Darick Polo; and (c) in the Federal Capital Territory: Karamajiji. She was touched not only by their suffering, but also by their resilience and their capacity to organize themselves and defend their human rights, including the right to housing. The role of the non-governmental organizations (NGOs) who assist them through legal aid, litigation, capacity-building, mentoring and fundraising is truly commendable. The Special Rapporteur encourages them to continue their critical work. She recommends that the Government and the international community support them with funding and by furthering their participation in public affairs.

### C. Inhumane living conditions in informal settlements

31. Owing to the colossal gap between the housing needs of the population and the housing supplied by entities in the private and public sectors, informal settlements continue to expand at very rapid rates. According to UN-Habitat, 69 per cent of the urban population of Nigeria lives in informal settlements<sup>37</sup> and according to the state government of Lagos, the country’s largest urban area, there is a housing deficit of 2.5 million units.

32. The Special Rapporteur visited informal settlements in Abuja, Lagos and Port Harcourt and observed living conditions that constitute an assault on human dignity, perhaps the most severe she has witnessed during her mandate. The Committee on Economic, Social and Cultural Rights, in paragraph 8 of its general comment No. 4 (1991) on the right to adequate housing, set out the international standards that housing must meet in order to be considered “adequate” according to international law. As far as the Special Rapporteur could observe during her visit, most of those standards had not been met, confirming the data gathered by UN-Habitat and the United Nations Children’s Fund (UNICEF) in the absence of official government data.<sup>38</sup>

33. The first condition for housing to be adequate is legal security of tenure. However, millions of Nigerians live in informal settlements without security of tenure, which makes them vulnerable to forced evictions. The Special Rapporteur witnessed the great levels of anxiety this causes to families, many of which are repeatedly subjected to forced evictions and live in constant fear that a new eviction could come with little or no notice.

<sup>36</sup> Amnesty International, *The Human Cost of a Megacity: Forced Evictions of the Urban Poor in Lagos, Nigeria* (London, 2017), p. 15.

<sup>37</sup> UN-Habitat, “Habitat country programme document Nigeria 2017–2021”, p. 3.

<sup>38</sup> Ibid. See also [www.unicef.org/nigeria/water-sanitation-and-hygiene](http://www.unicef.org/nigeria/water-sanitation-and-hygiene).



34. General comment No. 4 also requires that appropriate services, materials, facilities and infrastructure be made available for housing to fulfil the adequacy standard. The homes that the Special Rapporteur visited offered very little protection from the heat and the heavy rainfall that characterize the tropical climate in Nigeria. The availability of energy for cooking, heating and lighting, washing facilities, drainage systems, means of food storage and refuse disposal were severely lacking in all the communities visited. In many houses, open fires were used for cooking, affecting the quality of air that residents breathe. The Special Rapporteur also witnessed stagnant floodwater, which she learned was responsible for the proliferation of mosquitos and malaria. Although her visit did not take place during the height of the rainy season, many communities were flooded and many houses were inaccessible as unpaved streets were flooded or full of mud, making them impassable. The majority of the streets the Special Rapporteur saw in informal settlements were completely inaccessible for older, less agile persons and for persons using wheelchairs or other walking aids, even when assisted.

35. None of the homes that the Special Rapporteur visited had running water, boreholes or potable water, which meant that most families had to pay to access drinking water. As those living in informal settlements are often without income or earn very low incomes, such costs are prohibitive. Those who cannot afford fresh water must use contaminated flood water, which results in cholera and other health issues. The Special Rapporteur observed few houses with latrines. According to UNICEF, poor access to improved water and sanitation in Nigeria causes high morbidity and mortality rates among children, besides severely hampering their education as a result of absenteeism due to disease. Contaminated drinking water and lack of sanitation expose the population to preventable water-borne diseases, including diarrhoea, which kills more than 70,000 children under 5 annually. Only 26.5 per cent of the population uses improved drinking water sources and sanitation facilities, and 23.5 per cent of the population defecates in the open.<sup>39</sup>

36. In some of the settlements visited by the Special Rapporteur, inhabitants were exposed to serious hazards. Badia East, in Lagos, is located on a very narrow strip of land between shipping containers and a railroad track. The continuous passing of cargo trains exposes the settlement's inhabitants to a high risk of accidents, as there is virtually no separation between the houses and the track. Similarly, in several informal settlements the lack of pedestrian crossings for roads with fast and heavy traffic results in frequent accidents, including deaths. The Special Rapporteur received information that pedestrian bridges were only being built in more affluent areas. The Special Rapporteur stresses that these communities are situated in such places not by choice, but by necessity, and that their hazardous locations do not warrant forced eviction, which is contrary to the international human rights obligations of Nigeria. None of the communities visited by the Special Rapporteur had public squares, playgrounds for children or any other safe public space for social interaction except for one football field.

37. The Special Rapporteur also observed a case where the construction of luxury residential housing violated the rights to work and to food of a community living in an informal waterfront settlement in Bariga, Lagos. The dredging and sand-filling undertaken to construct the luxury housing increasingly jeopardized the ability of residents to access fishing resources, which serve both as an essential part of their diet and their main source of income. As a result, the Special Rapporteur observed local women smoking frozen fish imported from the Faroe Islands, in Denmark, to sell at market. The Special Rapporteur was appalled that the construction of luxury homes would deprive some of the poorest communities in the country from their ancestral economic activity, absurdly forcing them to buy frozen fish imported from one of the richest countries in Europe. This demonstrates the critical need for consultation with communities on any project that may affect their human rights, before the projects are approved, and to ensure that any adverse impacts on their rights are prevented and mitigated.

38. In her meetings with government officials, the Special Rapporteur noted that incremental in-situ upgrades – now fairly standard in other jurisdictions – are not seen as a viable option for improving the lives of the inhabitants of informal settlements no matter how vibrant, organized and well-structured their community is. Many officials claimed that

<sup>39</sup> [www.unicef.org/nigeria/water-sanitation-and-hygiene](http://www.unicef.org/nigeria/water-sanitation-and-hygiene).

Nigeria lacked the resources for improving the material conditions of those communities. However, such a position fails to acknowledge the human capital at hand. Residents of informal settlements who met with the Special Rapporteur said they were willing and able to take up the task themselves if provided with modest materials, or even loans to help finance upgrading and a guarantee of security of tenure from the Government. This option, which would prevent forced evictions, offers an opportunity to improve living conditions in informal settlements and, generally, would ensure that affected residents have improved access to housing, water and sanitation, health, education and other services, and thus be able to enjoy a life of dignity and in conformity with the right to adequate housing and other fundamental human rights.

## D. Homelessness

39. During the Special Rapporteur's visit, government officials and civil society organizations acknowledged homelessness as a growing problem, although no statistics had been collected to quantify its extent. The Special Rapporteur observed people living under bridges in Lagos and many in informal settlements in conditions equivalent to homelessness. In most cities, few or no emergency shelters were available. Homelessness is the failure of the State to implement the right to housing and is considered an egregious violation. The Human Rights Committee has acknowledged that failing to address the problem of homelessness can amount to a violation of the right to life.<sup>40</sup>

40. The Government is failing to uphold its human rights obligations in relation to homeless persons.<sup>41</sup> First, it does not have any information on the number of homeless persons in Nigeria and, second, it lacks a strategy to eliminate homelessness, with clear goals, targets and timelines.

41. By failing to prevent forced evictions, the Government is directly contributing to homelessness. Although in their meetings with the Special Rapporteur government officials generally rejected the notion that they engaged in forced evictions, many communities were under threat of forced eviction because the fundamental legislative and policy reforms that are required to prevent them did not exist.

42. As discussed below (see paras. 45–50), homeless persons and other persons in poverty suffer discrimination, stigma, criminalization and negative stereotyping in Nigeria.

43. The capacity of homeless persons to seek remedies for the human rights violations they suffer is hindered by the right to housing not being fully justiciable in court, and also by the lack of legal aid that could assist them in protecting their rights.

44. The Government is also failing to prevent abuses by third-party actors rendering persons homeless: in many forced evictions, the Nigerian security forces cooperate with groups of armed men in brutal attacks against residents, and public institutions fail to hold them accountable.<sup>42</sup>

## E. Criminalization and stigmatization of the poor

45. The Special Rapporteur was appalled to observe that those who have the greatest need to be protected and assisted by the State are instead stigmatized, persecuted, extorted and even arrested and jailed without having committed a crime.

46. In Lagos, the Special Rapporteur was informed that a police "task force" conducted "raids" and carried out "mass arrests" of poor people found walking in the streets. These people were put in trucks and delivered to a "mobile court" and encouraged to plead guilty to the offence of "wandering without evident means of livelihood", a defunct criminal offence, and forced to pay a fine of approximately 15,000 Naira (42 US\$). Those who could show a company identification document, had some money on them or were well dressed

<sup>40</sup> CCPR/C/79/Add.105, para. 12.

<sup>41</sup> A/HRC/31/54.

<sup>42</sup> Amnesty International, *The Human Cost of a Megacity*, pp. 7–8, 24–25, 27, 43 and 53–54.

might be released. The poorest, who could not afford to pay the fine, could face imprisonment. Some civil society organizations claim that the “mobile courts” were in fact “set up to exploit the urban poor and scare them out of the city”.<sup>43</sup>

47. Vagrancy laws criminalizing the poor were introduced in Nigeria during the British colonial regime and abolished by the military junta in 1989, after a long campaign by the human rights movement: the 1989 Minor Offences (Miscellaneous Provisions) Act, section 1, states that a person shall not be accused of or charged with the offence of wandering (by whatever name it is called) or with any other offence by reason only of being found wandering (by whatever name it is called) and, accordingly, that any person accused of or charged with such offence shall be released or discharged.

48. The Special Rapporteur is extremely concerned about the blatant disregard of the rule of law shown by the arrest and fining of poor people, a practice documented by NGOs and directly observed by the Special Rapporteur during her visit to a “mobile court”. The Special Rapporteur regrets that her concern was met with scepticism by government and judicial officials. Officials who admitted that the practice may be taking place suggested that lawyers should challenge in court the imposition of a law that was abolished decades ago. The Special Rapporteur notes, however, that, first and foremost, resolute action by the Government is required to immediately suspend the unlawful, discriminatory and exploitive behaviour of the police and the “mobile courts”.

49. Often, people living in informal settlements resort to hawking, the informal sale on the streets of low-value items, to make a living. This practice is seen as a nuisance by the Government and is therefore banned in many areas, resulting in arrests and extortion by the police. The Special Rapporteur understands the need to regulate economic practices in urban areas but the poorest inhabitants should not be penalized for their attempts to make a living through street trade in a country where 60 per cent of the economy remains informal.<sup>44</sup>

50. Another worrying aspect of the criminalization and stigmatization of people living in poverty was reflected in the views expressed by some government officials during meetings with the Special Rapporteur. An informal settlement was referred to as “a den of kidnappers and criminals”, and others jokingly doubted whether their inhabitants were “actually human”. While forced evictions are mainly carried out for economic interests, the stigmatization and dehumanization of inhabitants of informal settlements also provides a pretext for forced evictions and for the brutal use of force with which they are often conducted. Demolishing entire communities based on the alleged criminal activities of some of their inhabitants is not only discriminatory, but also constitutes collective punishment.

## F. Conflict-related displacement

51. The Special Rapporteur is alarmed by the critical housing situation of those affected by the internal armed conflict, including internally displaced persons. According to the Office for the Coordination of Humanitarian Affairs, since the conflict started in 2009, 1.8 million persons have left their homes and remain displaced, while 3.5 million persons need shelter, including 412,000 persons who need emergency shelter. In September 2019, of the 60.5 million US\$ required to cover housing- and shelter-related needs for internally displaced persons, only 5.2 million US\$ had been received (8.6 per cent of the total) from donors.<sup>45</sup>

52. The Special Rapporteur met with internally displaced persons living in an informal settlement in the Federal Capital Territory and witnessed their appalling living conditions. The Special Rapporteur was told that, four years after their arrival in the capital, the only assistance they had received from the Government was the initial permission to stay on the land they were occupying, which had been granted only informally and without guaranteeing

<sup>43</sup> Urban Resilience Hub, “The crackdown on the informal poor: a problem or a solution?” (25 September 2018).

<sup>44</sup> Vivian Malta and others, “Informality and gender gaps going hand in hand”, p. 18.

<sup>45</sup> Office for the Coordination of Humanitarian Affairs, *North-East Nigeria: Humanitarian Situation Update – Progress on key activities from the 2019–2021 Humanitarian Response Strategy* (September 2019), p. 12.

security of tenure. Some of the houses had been marked with red Xs indicating their upcoming demolition. Lack of security of tenure and the threat of forced evictions affect the majority of internally displaced persons in the country. Instead of providing durable housing solutions, the Government is prioritizing securing their return to their communities of origin, where conditions may not be suitable.

53. The Special Rapporteur is concerned about the vulnerability experienced by internally displaced persons because they lack security of tenure: should they be forcibly evicted, after having fled conflict and persecution, the additional trauma would be unimaginable. As many as 80 per cent of displaced persons are women and children.<sup>46</sup>

54. The visit to the community of internally displaced persons included the school that displaced children attended: a tiny, overcrowded school with over 100 children occupying a single space, run with few resources by an NGO. Being an unofficial school, the children attending it will not receive official certificates for the education received. The Special Rapporteur noted that these appalling conditions, which undermine the right to education of the displaced children, are not found in a remote area of the country with difficult access, but in the outskirts of Abuja, a 30-minute drive away from the city centre and the Federal Ministry of Education. Currently, only 20 per cent of the children affected by the humanitarian situation attend school.<sup>47</sup>

55. The inadequate provision of shelter and housing to internally displaced persons has had particularly negative impacts on women and girls: sexual and gender-based violence is prevalent in camps for internally displaced persons and instances of sexual exploitation in exchange for aid by security forces, influential community members and humanitarian workers have been reported.<sup>48</sup>

56. The Special Rapporteur notes with appreciation that the 2012 National Policy on Internally Displaced Persons in Nigeria refers to the right to housing and other economic, social and cultural rights, including the rights to an adequate standard of living, food and water, basic shelter and housing, appropriate clothing and essential medical services and sanitation<sup>49</sup> for internally displaced persons, and that it specifically mentions that women should be full participants in the distribution of supplies.<sup>50</sup> However, she regrets that those rights, which are also included in the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, ratified by Nigeria in 2012, are currently not enforceable in domestic courts. The Special Rapporteur encourages the Government to enshrine the rights contained in the Convention into national law, as a positive step in the protection of the right to housing of internally displaced persons in the country. The urgent allocation of the necessary resources, both by the Government and the international community, is also critical in order to address the housing and shelter needs of internally displaced persons: funds available to the humanitarian community only covered 8.6 per cent of the needs in September 2019.<sup>51</sup>

## VI. Discrimination of vulnerable groups

57. Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights provides that the right to housing should be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Special Rapporteur met with members and representatives of vulnerable groups who suffer discrimination impeding their enjoyment of the right to housing.

<sup>46</sup> Ibid., p. 18.

<sup>47</sup> Ibid., p. 15.

<sup>48</sup> Submission by the Center for Reproductive Rights.

<sup>49</sup> [www.refworld.org/pdfid/5a7ae2324.pdf](http://www.refworld.org/pdfid/5a7ae2324.pdf).

<sup>50</sup> Ibid.

<sup>51</sup> Office for the Coordination of Humanitarian Affairs, *North-East Nigeria: Humanitarian Situation Update*, p. 12.

## A. Women

58. Women experience sex- and gender-based discrimination in almost every aspect of life in Nigeria. A particularly concerning manifestation of such discrimination is domestic violence. Although data is scant, one study found that close to a third of all of Nigerian women had experienced physical violence at the hands of their intimate partners.<sup>52</sup> Violence seems to remain prevalent despite the enactment of the 2015 Violence against Persons (Prohibition) Act.

59. Inadequate housing can also cause violations of women's right to sexual and reproductive health. The Committee on Economic, Social and Cultural Rights has stated that those rights extend beyond sexual and reproductive health care to the underlying determinants of sexual and reproductive health, including access to safe and potable water, adequate sanitation, adequate food and nutrition and adequate housing.<sup>53</sup> The Special Rapporteur heard testimonies of women in informal settlements who had been raped when fetching water and when going to the toilet.

60. In informal settlements, women facing domestic violence lack support structures and resources to flee to safety. As part of a practice that has been condemned by the Community Court of Justice of the Economic Community of West African States (ECOWAS), women walking alone at night are indiscriminately subjected to arbitrary arrest and sometimes even to sexual violence at the hands of the police, merely because they are suspected of being sex workers.<sup>54</sup> The number of emergency shelters available across the country is clearly insufficient. According to civil society organizations, the availability of shelters is better in Lagos and in Abuja than in the rest of the country,<sup>55</sup> which is troubling considering that, in 2014, only one government-run shelter was available for female victims of violence in Lagos (a city with over 20 million inhabitants), in addition to two NGO-run shelters. Even women fleeing violence who have the resources to rent accommodation are often discriminated against by landlords who refuse to rent to single or unaccompanied women for "decency" reasons.<sup>56</sup>

61. Women living with HIV/AIDS also experience discrimination. Although 1.5 per cent of the adult population in Nigeria lives with HIV/AIDS (55 per cent of whom are women), and despite the 2017–2021 National HIV/AIDS Strategic Framework acknowledging that stigma and discrimination are major issues, there is no national legislation explicitly banning discrimination based on someone's actual or perceived HIV status. The Special Rapporteur received reports of extreme cases of discrimination in relation to the right to housing: HIV-positive women had been evicted from their homes and communities and left homeless as a result of the absence of emergency shelters or housing options. Female HIV-positive students had been expelled from university accommodation after reporting their status to the university's health services.

## B. Lesbian, gay, bisexual and transgender persons

62. Lesbian, gay, bisexual, and transgender persons experience extreme discrimination in Nigeria. The 2013 Same-Sex Marriage (Prohibition) Act imposes a 14-year prison sentence for entering into a same-sex "marriage contract or civil union" and a 10-year prison sentence for those who witness, abet and aid the solemnization of a same-sex marriage or union. It

<sup>52</sup> World Health Organization, *World Report on Violence and Health 2002* (Geneva, 2002), p. 90.

<sup>53</sup> Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health, para. 7.

<sup>54</sup> In one case brought before the Community Court of Justice, *Dorothy Chioma Njemanze and others v. the Federal Republic of Nigeria*, four women were abducted and assaulted sexually, physically and verbally by Nigerian law enforcement officers who accused them of engaging in prostitution because they were in the street at night.

<sup>55</sup> Canada, Immigration and Refugee Board of Canada, "Nigeria: domestic violence, including in Lagos State; legislation, recourse, state protection and services available to victims (2011–October 2014)" (10 November 2014).

<sup>56</sup> [www.bbc.com/news/world-africa-45169688](http://www.bbc.com/news/world-africa-45169688).

also imposes a 10-year prison sentence on persons who directly or indirectly make public show of same-sex amorous relationships. Twelve states in northern Nigeria apply sharia law and penalize homosexuality with death. Although the Special Rapporteur did not receive evidence of the Act having been implemented, it creates a climate of oppression.

63. The Act also violates the right to privacy in the home, as the terms “same-sex marriage” and “civil union” are defined vaguely and could include any form of same-sex cohabitation. While so far there have been no prosecutions under the Act, the law contributes to a social climate that provides justification for discrimination and violence against lesbian, gay, bisexual and transgender persons, including in their own homes. Human Rights Watch reported that in 2014, in Gishiri village, Abuja, a group of approximately 50 persons armed with machetes, clubs and whips dragged people from their homes and severely beat at least 14 men whom they suspected of being gay. The victims told Human Rights Watch that their attackers chanted: “We are doing [President Goodluck] Jonathan’s work: cleansing the community of gays.” The impact on the right to housing is clear in their testimonies: “The mob was going from house to house looking for gay people, and they had police officers with them. We could not sleep in our house that night; we had to sleep under a bridge.”<sup>57</sup>

64. The Special Rapporteur received reports of landlords evicting or refusing to rent to tenants suspected of being lesbian, gay, bisexual or transgender. A deeply disturbing case of a landlord recruiting a group of men to repeatedly rape his tenants, a lesbian couple, in his presence, was also brought to the Special Rapporteur’s attention. The Initiative for Equal Rights, an NGO based in Nigeria, receives four to five complaints each month alleging the eviction of people from their apartments because of their gender identity or sexual orientation.<sup>58</sup>

65. Many lesbian, gay, bisexual and transgender persons in Nigeria are forced into gender conformity and isolation, not only publicly, but also in their own homes, which is incompatible with the enjoyment of the right to housing. The Committee on Economic, Social and Cultural Rights has stated that the right not to be subjected to arbitrary or unlawful interference with one’s home and privacy constitutes an essential dimension of the right to adequate housing.<sup>59</sup> Friends and family members of lesbian, gay, bisexual or transgender persons may find themselves in violation of the Same-Sex Marriage (Prohibition) Act if they associate with their lesbian, gay, bisexual or transgender relative. Lesbian, gay, bisexual and transgender persons are also forced to limit visits to their own domicile by friends who could be suspected of being lesbian, gay, bisexual or transgender for fear that their landlord or neighbours may report them to the police. As a consequence, not even their home offers a safe space for socialization.

### C. Indigenous peoples

66. Nigeria did not support the adoption of the United Nations Declaration on the Rights of Indigenous Persons.<sup>60</sup> Its internal legislation is not in line with international standards on indigenous peoples’ land rights,<sup>61</sup> affecting their right to housing as forced evictions deprive them not only of their agricultural lands but also of their homes. The Committee on the Elimination of Racial Discrimination has expressed deep concern regarding the failure of Nigeria to engage in meaningful consultations with indigenous peoples, including the Ogoni, and has stated that the Land Use Act and the Petroleum Decree are contrary to the International Convention on the Elimination of all Forms of Racial Discrimination in relation

<sup>57</sup> [www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act](http://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act).

<sup>58</sup> Canada, Immigration and Refugee Board of Canada, “Nigeria: information on how bisexuality is understood and perceived in Nigeria; whether bisexuality is distinguished from both male and female homosexuality (2014–June 2015)”, (9 September 2015).

<sup>59</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 17.

<sup>60</sup> <https://unpo.org/article/6763>.

<sup>61</sup> Sylvanus Barnabas, “The role of international law in protecting land rights of indigenous peoples in Nigeria and Kenya: a comparative perspective”, in *Indigenous, Aboriginal, Fugitive and Ethnic Groups Around the Globe*, Liat Klain-Gabbay, ed. (2019).

to indigenous peoples' rights.<sup>62</sup> The Committee was also alarmed by the assaults, the summary executions and other abuses carried out against local communities by police and security personnel employed by oil companies in Rivers and Delta States. It called upon the Government to conduct full and impartial investigations into alleged violations committed by police and private security personnel and to provide redress to victims.<sup>63</sup>

67. The Special Rapporteur met with representatives of the Ogoni tribe in Rivers State, who complained of forced evictions contrary to article 10 of the United Nations Declaration on the Rights of Indigenous Peoples and article 11 (1) of the International Covenant on Economic, Social and Cultural Rights. They recounted their ongoing struggle to maintain control over their lands and resources. The Special Rapporteur also met with the Gbagyi community in the Federal Capital Territory. Although the Gbagyi agreed to have their lands expropriated for the creation of a new national capital in Abuja in 1991, they have not been afforded adequate compensation and resettlement, violating articles 8 and 10 of the Declaration. As established in the basic principles and guidelines on development-based evictions and displacement, compensation for all evictions need to be fair and just for both women and men and cover, among other things, lost opportunities, including employment, loss of earnings and the costs of legal assistance. Loss of land should be compensated with land commensurate in quality, size and value, or better.<sup>64</sup> The Gbagyi continue to live in informal settlements dispossessed of their land, without security of tenure and under the threat of forced eviction contrary to the provisions in the Committee on Economic, Social and Cultural Rights' general comments No. 4 and No. 7 (1997) on forced evictions.

#### **D. Persons with disabilities**

68. The Special Rapporteur notes positively that Nigeria ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2010 and adopted the 2018 Discrimination against Persons with Disabilities (Prohibition) Act. The Act prohibits discrimination on the basis of disability and imposes fines and prison sentences on those who contravene it. It also stipulates a five-year transitional period for modifying public buildings, structures and motorized vehicles to make them accessible to and usable by persons with disabilities. The Act also establishes the National Commission for Persons with Disabilities, which is responsible for ensuring that persons with disabilities have access to housing, education and health care. The Commission will be empowered to receive complaints of violations and support victims to seek legal redress.

69. Despite normative progress, persons with disabilities still face arbitrary arrests and imprisonment, stigma, violence and discrimination in most aspects of life, including health care, housing and education.<sup>65</sup> The Special Rapporteur heard appalling testimonies of inhumane disregard for the dignity of persons with disabilities. According to a number of accounts, persons with disabilities are commonly arrested indiscriminately and transferred to "rehabilitation centres" that are tantamount to the poorest prisons, with overcrowded rooms, deplorable conditions, lack of access to showers and insufficient food. The Special Rapporteur was informed that residents contract preventable diseases such as tuberculosis and often die prematurely while in the centres. Witnesses claimed being discarded "like waste". One victim told the Special Rapporteur that he had been sent to a rehabilitation centre in 1980. He had been denied regular access to showers, had been provided with limited quantities of food and had been physically restrained with chains for an entire year. As he had no money to bribe officials in order to leave, he had to escape.

70. Between 2003 and 2007, persons with disabilities begging on the streets of Abuja were forced to leave the centre and were "evacuated" to Karamajiji, in the outskirts of the city. The forced eviction led to the creation of a colony, home to hundreds of persons with physical, intellectual and psychosocial disabilities. When the Special Rapporteur visited the colony, the housing conditions were utterly inadequate, comparable to other informal

<sup>62</sup> CERD/C/NGA/CO/18, para. 19.

<sup>63</sup> Ibid.

<sup>64</sup> A/HRC/4/18, annex I, para. 60.

<sup>65</sup> [www.hrw.org/news/2019/01/25/nigeria-passes-disability-rights-law](http://www.hrw.org/news/2019/01/25/nigeria-passes-disability-rights-law).

settlements. Improvised shacks offered little protection from the elements and their inhabitants lived on dirt floors and had no access to running water or electricity. The lack of paved roads and properly graded ramps made it particularly difficult for residents in wheelchairs or on crutches to move around. Despite the deplorable housing conditions, the community was vibrant, benefiting from an internal atmosphere of acceptance, and seemed cohesive in terms of residents' attempts to assist each other, although most indicated that they could not earn a livelihood and thus could not upgrade their own housing conditions. Access to education and health care was severely limited.

## VII. Access to justice

71. According to the Committee on Economic, Social and Cultural Rights, States must offer an accessible, affordable, timely and effective remedy, either judicial or administrative, to persons whose right to housing has been violated.<sup>66</sup> The Committee has also stated that a rigid classification of economic, social and cultural rights, putting them beyond the reach of the courts, is arbitrary and incompatible with the indivisibility and interdependence of human rights. It also hinders the capacity of the courts to protect the rights of the most vulnerable and disadvantaged groups in society.<sup>67</sup>

72. In Nigeria, however, the Constitution creates a hierarchy of rights privileging civil and political rights over socioeconomic rights, which renders the latter non-justiciable in court. Although section 16 (2) (d) of the Constitution mandates the State to provide adequate shelter for all, section 6 (6) (c) restricts the courts from adjudicating on those matters.

73. While the constitutional protection of the right to housing is inadequate, forced evictions often violate a wide array of other rights protected in the Constitution, such as the right to physical security and to freedom from cruel, inhuman and degrading treatment.<sup>68</sup> This has allowed victims of forced evictions to successfully claim in court that forced evictions in which no alternative accommodation is provided violate the Constitution. In 2017, the High Court of Lagos State ruled in *Akapo Agemo and others v. the Attorney General of Lagos State and others* that the eviction/threat of forcible eviction of any citizen from his home at short notice and without any immediate alternative accommodation or sufficient opportunity to arrange for such alternative accommodation before being evicted from his current abode was totally undignifying and certainly inhuman, cruel and degrading. The Court also ruled that forced evictions that left evictees homeless violated the prohibition of inhuman and degrading treatment enshrined in section 34 of the Constitution, a justiciable constitutional provision.

74. The Special Rapporteur was alarmed to learn that governments in Nigeria often ignore the rule of law in a manner that violates the right to housing. This was confirmed to the Special Rapporteur in meetings with officials of the executive branch and the judiciary. One senior judge exclaimed: "We do not have guns!" in frustration regarding his court's inability to enforce its judgments when political and economic interests were at stake.

75. Amnesty International and Justice and Empowerment Initiatives have documented this issue extensively. For example, on 7 November 2016, the High Court of Lagos State issued an injunction restraining the Government and the police from conducting the previously announced demolition of the Otodo Gbame waterfront community. Ignoring the order, only two days later, on 9 and 10 November 2016, the Otodo Gbame community was demolished and 30,000 persons were forcibly evicted. The arsons and the use of bulldozers commenced during the night, while residents were sleeping. After the Court ruled that the eviction of the Otodo Gbame community residents amounted to cruel and inhuman treatment contrary to Constitutional provisions in section 34 (mentioned above), the Court ordered mediation between the parties. The Lagos State government abandoned the mediation and continued to brutally evict members of the community. The Court was unable to hold the

<sup>66</sup> Committee on Economic, Social and Cultural Rights, general comment No. 9 (1998) on the domestic application of the Covenant, para. 9.

<sup>67</sup> Ibid, para. 10.

<sup>68</sup> A/HRC/4/18, annex I, para. 6.



Governor in contempt of court due to the executive immunity he enjoyed. In another example, the demolition of the homes of between 10,000 and 20,000 persons in an informal settlement in Abonnema Wharf, Port Harcourt, was carried out in June 2012 despite a Rivers State High Court order in November 2011 restraining the Government from evicting residents and demolishing the community.

76. Such disregard for high court orders and judgments suggests that State governments believe that their conduct is not subject to the law, or that human rights do not extend to the indigent. Engaging judicial processes to protect one's home requires courage and resources. In a democracy, it is reasonable to expect States to respect the judiciary.

77. Advocates in Nigeria have also used regional mechanisms to protect the right to housing. The African Charter on Human and Peoples' Rights was successfully used to claim the right to be free from forced eviction by referring to the rights to property, family and health.<sup>69</sup> In another example of successful international litigation, the Community Court of Justice of ECOWAS ruled that the Government had violated the right to peaceful assembly when security forces shot at unarmed protesters in Bundu Ama, an informal settlement in Port Harcourt, killing at least 1 person and injuring 12 others in 2009.<sup>70</sup> Protesters were marching against an attempted forced eviction.

78. The Nigerian National Human Rights Commission has been another important institution and mechanism for the implementation of the right to housing. The Commission's Economic, Social and Cultural Rights Department has housing one of its focus areas. The Commission takes on individual complaints, also on housing issues and forced evictions. Although it does not hold hearings on individual cases, it can play a mediation role.

79. The National Human Rights Commission created a special panel in 2013 with the task of travelling across the country and collecting testimonies of victims of forced evictions and forceful acquisition of land and property. The aim of the panel was to document the extent of forced evictions and associated human rights violations, with the overarching goal of developing policy recommendations for the Government. The panel travelled to Lagos, Port Harcourt and other cities, and produced an interim report. However, the panel was suspended prior to completing its work when the President, Muhammadu Buhari, dissolved the Commission's Governing Council in 2015. Seventeen communities are currently arguing before the Community Court of Justice that their rights to an effective remedy and to be heard without undue delay were violated as a result of the panel's suspension.<sup>71</sup>

80. The National Human Rights Commission's work to protect the right to housing has been constrained by the suspension of its policymaking and decision-making body, the Governing Council, since 2015. The Special Rapporteur was told that the appointment of its members was imminent.

## VIII. Conclusions and recommendations

81. **In order to tackle the housing crisis in Nigeria, it is crucial that reliable data be obtained: the Government should immediately commence the collection of impartial census data. The National Population Commission of Nigeria should ensure that the next census includes human rights-based indicators relevant to the right to housing, such as the size of the population living in informal settlements and the situation of those living in homelessness, measurements of housing adequacy and affordability, the number of vacant homes, housing and land ownership rates and information on security of tenure.**

82. **The federal Government should declare a national-level end to forced evictions and establish legal and procedural safeguards to ensure that if an eviction occurs it is in compliance with international human rights law. All court orders preventing forced**

<sup>69</sup> African Commission on Human and Peoples' Rights, *Social and Economic Rights Action Centre and Centre for Economic and Social Rights v. Nigeria* (2002).

<sup>70</sup> Community Court of Justice, *Socioeconomic Rights and accountability Project v. Nigeria* (2010).

<sup>71</sup> *Ibid.*, *Edwin Lenye and others v. Nigeria*.

evictions must be strictly respected and past instances of government officials disobeying court orders must be investigated and perpetrators held accountable.

83. Federal and state governments must recognize housing as a fundamental human right, residents of both formal and informal housing as rights-holders and housing as a social good. Legislation recognizing the right to housing as a fundamental human right should be enacted alongside rights-based housing strategies and mechanisms for claiming this right. They must meaningfully engage communities in the development of both. Rights-based strategies should include measurable goals and timelines, and monitoring and accountability mechanisms. They should be multisectoral in approach and aim to enhance federal-state coordination. Strategies must address structural barriers to adequate housing for the most vulnerable populations, including viable housing options for those with no income. Guidance on how to ensure that housing strategies conform with international human rights law is contained in the Special Rapporteur's report to the Human Rights Council at its thirty-seventh session (A/HRC/37/53).

84. The Land Use Act should be updated to address present-day challenges and reduce bureaucratic obstacles to the transfer of land rights. Most importantly, the wide powers that the Act grants to Governors to revoke occupancy rights must be restricted and aligned with international human rights standards, including the prohibition of forced evictions and the rights of indigenous peoples over their lands and resources.

85. A national commission should be established to investigate gross and systematic human rights violations that have occurred during past forced evictions, provide access to remedies, including compensation and restitution, and hold perpetrators accountable. Due to the scale of the violations, a truth commission may be advisable.

86. The Government of Nigeria should urgently pursue a comprehensive tax reform in order to increase non-oil revenues, prevent tax evasion, enhance tax justice and reduce the country's extreme economic inequality.

87. Specific measures must be put in place to curb real estate investment for money-laundering, including: public disclosure of assets, particularly for public officials; regulation of real estate transactions by banks; and maintenance of national and state land registers.

88. A strategy for dealing with vacant homes should be developed, including by giving consideration to the imposition of a prohibitive level of tax on vacant homes, to curb speculation. The revenues from such a strategy could be used to generate genuinely affordable housing. In addition, the expropriation of vacant homes for public purposes to address urgent housing needs should be considered.

89. The President should immediately appoint the Governing Council of the National Human Rights Commission and ensure that it continues to comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Commission must also be provided with adequate resources.

90. The Government should prioritize in-situ upgrading of informal settlements, beginning by ensuring that each community has access to affordable potable water and sanitation services and is afforded long-term security of tenure. In-situ upgrading must not result in displacement and must conform with the principles laid out in the Special Rapporteur's report on this topic (A/73/310/Rev.1). If it is determined, after exploring all options, that in-situ upgrading is not possible and that communities are to be relocated, applicable international human rights law and standards must be strictly adhered to as specified by the Committee on Economic, Social and Cultural Rights in its general comment No. 7 (1997) on forced evictions and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I).

91. The Government should address homelessness on an urgent and priority basis as a human rights crisis, as part of the country's housing strategy. As a first step, and at a minimum, the number of available emergency shelters for different populations at risk, such as women and children fleeing violence, lesbian, gay, bisexual and

transgender persons and those living with HIV/AIDS, should be increased significantly. The Government should verify how many persons are homeless and disaggregate relevant data by gender, age, disability and other factors. Homeless persons must be consulted in the process, in order to understand the socioeconomic factors causing homelessness and the best long-term solutions to their situation.<sup>72</sup>

92. Mass arrests and the extortion of vulnerable groups, including single women, persons with a low income and those living in homelessness, persons with disabilities, inhabitants of informal settlements and unemployed persons, must be immediately discontinued. The federal Government must undertake a systematic review of those policing and judicial practices. Provisions 249 and 250 of the Criminal Code and any other piece of legislation that discriminates and criminalizes persons because they are poor or homeless must be immediately repealed.

93. The Government should urgently establish the National Commission for Persons with Disabilities mandated under the Discrimination against Persons with Disabilities (Prohibition) Act, and address inhumane conditions in rehabilitation centres with a view to closing them as soon as possible. The forced reclusion of persons with disabilities must immediately cease. The Government must ensure that community resources are available to facilitate the successful independent living of persons with disabilities in communities and within their families by providing social and medical support, livelihood resources, employment opportunities, education and adequate housing.

94. The Government should enshrine the provisions of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa into national law and make the rights of internally displaced persons set out in the Convention directly enforceable in court.

95. In the management of the humanitarian situation and the internal displacement situation, durable solutions addressing the housing needs and security of tenure of internally displaced persons should be prioritized. The security of internally displaced women must be guaranteed.

96. The National Assembly and state-level legislatures must adopt comprehensive legislation (including by amending the federal and state tenant legislation) banning discrimination in the housing sector by public and private actors of any group, including women (irrespective of civil status), HIV-positive persons, lesbian, gay, bisexual and transgender persons and persons with disabilities.

97. The Same-Sex Marriage (Prohibition) Act, as well as all other pieces of legislation that discriminate and criminalize on the basis of a person's sexual orientation and gender identity, must be repealed. The right to privacy of lesbian, gay, bisexual and transgender persons in their own homes is an essential element of the right to housing and must be protected.

98. The federal Government should consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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<sup>72</sup> See also A/HRC/31/54.