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   • Land: a critical variable in the eviction equation
   • UNHRP
   • UN-HABITAT AH4all Programme: a framework for future activities by UN-HABITAT
Forced Evictions and Housing Rights:
review experiences and a forward looking for UN-HABITAT.

Claudio Acioly Jr.
Chief Housing Policy Section
Claudio.acioly@unhabitat.org
0. Keeping our goal clear and on focus
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Achievements at the international level: a framework for action.
In 1976 two treaties came into force in international law that embody the highest ideals that have ever been expressed in law, let alone in international law. They are the Covenant on Civil and Political Rights and the Covenant on Economic, Social & Cultural Rights.

The Nations that have ratified these treaties – and that now includes the majority of nations on earth – have in so doing surrendered a large measure of their sovereign powers over the populations of their countries, have committed themselves to making periodic reports to the UN on their progress.
They have thus made themselves parties to the greatest collective project ever undertaken by our species. The success of this project over the next century will depend in part on the removal of many obstacles; some of these obstacles are entrenched political and economic interests, and some are ideas, attitudes, and habits of thought that are equally well entrenched.
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Evictions, relocation, resettlement, displacement:

Denominations for an old phenomenon of social exclusion
UAI SÔ, NÓS TAMBIÉM TEM DIREITO DE UM LUGAR PRA MORAR!

INVASOR NÃO, POSSEIRO!

FORA DAÍ SEU INVASOR!
Shock as man found living in nest like bird

By Kimani Kim

The ‘house’ perched atop a tree in a busy intersection of Mandela and Kilwa roads in Dar es Salaam has lately attracted the attention of motorists and pedestrians. The tarpaulin and cardboard structure strongly secured to tree branches is home to a man whose age is estimated at between 20 and 25 years.

The unidentified young man according to people familiar with the surroundings has made the tree perched nest his home for the last five months.

Fruit and maize vendors who sell their products under the tree said the man usually wakes up very early and briefly returns to the abode at noon to take a shower under the tree using a five-litre container.

“He usually sleeps for a few hours and then leaves. We do not know where he works but appears quite normal and rarely engages in conversation,” a fruit seller told Sunday Citizen this week.

His shelter also made of old sacks and umbrellas is meticulously raised and secured with ropes to enable him in Dar es Salaam. Curious onlookers have been trooping to inquire the whereabouts of the ‘tenant.’

A spot check revealed a sizeable base in between the branches and lined with tattered clothes formed the ‘bed’ while a rope inside had a few clothes to indicate indeed someone lives there. A piece of cloth with Tanzanian flag colours is raised on one edge of the nest.

There was, however, no sign that any cooking takes place there or under the tree. Sunday Citizen was told that the owner of the abode has not been seen for the last three days.

Mohamed Suleiman who sells oranges there said he has regularly spotted the man. “He seems to always mind his own business and has never uttered a word to me. But he acts abnormally.” “He wakes up very early in the morning and comes back at 10 am to rest for about two hours and then leaves,” Mohamed said, adding that sometimes he does physical exercises like jogging around before taking a shower beneath the nest.

Mohamed said he does not know

A nest-like ‘house’ on a tree at the junction of Mandela/Kilwa Road in Dar es Salaam, a spot an unidentified young man has turned into his home for the last five months, without catching the eye of Tembeke District Council officials who have their offices just a stone-throw away.
Keeping our goal clear and on focus

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UNHRP

UN-HABITAT AH4all Programme: a framework for future activities by UN-HABITAT
3.

Understanding the meaning of Housing:

It is surprising to find such a diversity of notions.
Institutional Frameworks

Legal & Regulatory Frameworks

Land Infrastructure Finance Building Materials Labour

Instruments Actions Strategies Policies

Housing

The Housing Diamond of Perfect Equilibrium of Inputs

- Land
- Infrastructure
- Building Materials
- Labour
- Finance
- Policy, Legal & Regulatory Frameworks

Scarcity of one Component brings Disequilibrium

Housing Policy Interventions are needed

Building Materials

Labour

Finance

Infrastructure

Land

Policy, Legal & Regulatory Frameworks

What is the ultimate goal?

Affordable & Adequate Housing

Source: Acioly, C. IHS: 1994 2003;
The Context of Housing Policy

Market

SUPPLY

HOUSING AFFORDABILITY
"Prices"

DEMAND

OUTCOMES

Affected by availability of:
- land
- Infrastructure
- Building Materials - BM
- Organisation Building Industry
- Skilled & Productive Labour
- Self-reliance BM production

Affected by:
- Demographic conditions
- Rate of urbanization
- Rate of New household formation
- Property rights regime
- Housing Finance
- Fiscal Policies
- Subsidies
- Macro-economic conditions

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4. The progressive realisation of the right to adequate housing: a policy and political choice.
What is the Right to Adequate Housing?

7 adequacy criteria according to International Covenant on Economic, Social and Cultural Rights:

1. Security of tenure (and protection from forced eviction!)
2. Availability of services, materials, facilities and infrastructure
3. Location
4. Habitability
5. Affordability
6. Accessibility
7. Cultural adequacy
Key Concepts – Housing Rights
Forced Evictions (1)

- **CESCR General Comment 7** defines forced evictions as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights”.

Observation for the way forward 1

1. Much disparity about the notion of housing amongst all stakeholders;
2. Government officials, practitioners, NGO staff have inadequate exposure to and consequently limited knowledge about an array of housing policy experiences
3. Anecdotal-based policy decision making
4. Training and capacity building as well as policy dialogues, including south-south cooperation highly needed.
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   • UNHRP
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The mandate:
A rights-based approach to urban development
“We reaffirm our commitment to the full and progressive realization of the right to adequate housing, as provided for in international instruments.”

The Istanbul Declaration (para. 8) and the Habitat Agenda (para. 39).
Housing Rights in the Habitat Agenda (1996)

• Governments reconfirmed their commitment to housing rights:
  
  – “We reaffirm our commitment to: ensuring the full realization of the human rights set out in international instruments and in particular, in this context, the right to adequate housing” (para. 26)

• Paragraph 61 clarifies actions needed for the progressive realization of housing rights:
  
  – Prevention of homelessness and discrimination in housing;
  – Promotion of security of tenure;
  – Prevention of illegal eviction;
  – Promotion of access to information, land, services and financing for affordable housing.

• Habitat Agenda also recognized vital role of NGOs and CBOs in the process of realizing these rights
1. The role of UN-HABITAT is to hold countries accountable and call upon their commitments and obligations, advise and recommend.

2. Many believe that the implementation of the Habitat Agenda is UN-HABITAT’s responsibility.

3. Civil society organisations and Habitat Agenda partners are equally responsible for its implementation through working closely with or pressing their governments to implement the contents of the Habitat Agenda amongst other things.
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Global and local trends: urbanisation and the growth of slums.
Slums: UN-HABITAT’s rights-based definition

“A slum household is a group of individuals living under the same roof in an urban area who lack one or more of the following five conditions:

- Access to drinking water
- Access to sanitation
- Durability of housing
- Sufficient living area
- Secure tenure
Developed Countries

- Accelerated growth (+4%): 2%
- Rapid growth (2-4%): 5%
- Moderate (1-2%): 11%
- Slow (0-1%): 42%
- Decline (-0%): 40%

Developing Countries

- Accelerated growth (+4%): 16%
- Rapid growth (2-4%): 35%
- Moderate (1-2%): 22%
- Slow (0-1%): 17%
- Decline (-0%): 10%

Source: UN-HABITAT, 2008
Population Growth and Decline of The World's Cities

Source: UN-HABITAT, 2008
Population Living in Slums & Proportion Living in Slums, Developing Regions 1990-2010

Source: SWCR 2010-2011, UN-HABITAT.
# Slums: Past, Present & Future

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<tr>
<th>Region</th>
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<th>Slum formation</th>
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<td>Western Asia</td>
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</table>

Source: UN-HABITAT, 2008
Observation for the way forward 3

1. Getting the right data and unfolding the policy implications are some of the fundamental monitoring roles of UN-HABITAT

2. Unfolding the implications and disseminating experiences in addressing the problem is another critical role for UN-HABITAT

3. Supporting governments, civil society and partners in developing evidence-based policies and responses are also critical roles for UN-HABITAT
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Kibera, Nairobi: the largest slum of Africa!

Getting the facts right.
Observation for the way forward 4

1. The numbers about Kibera kept being inflated and became conventional wisdom spread by the press, local actors, government, UN-HABITAT, international organisations.

2. Conventional wisdom is often wrong, leading to fabrication of facts and processes.

3. This has serious implications for the credibility of any organisation or individual, be UN-HABITAT and all NGO’s working in this field who embraced the lie!

4. This lesson is important for those working with evictions.
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The problem:
Forced Evictions are still on the rise

→ violate the human right to adequate housing
→ jeopardise MDG achievement
Evictions in Pictures: Nairobi, Kenya
Evictions in Pictures: Porta Farm

Total population: 5993
Households: 1318
Average period: 7 years
History of evictions: 58%
Housing waiting list: 29%
Work-related reasons: 27%
Water taps: 14

Source: Dialogue on Shelter (2003)
Source: George Masimba, Dialogue on Shelter, IHS, 2008.
Reported Cases of Destroyed Housing during "Operation Murambatsvina" (19 May-9 July 2005)

"Operation Murambatsvina" began 19 May 2005 and has left an estimated 300,000 people homeless, according to UN reports. The areas with destroyed housing shown in this map were identified through aerial photo and have not been independently verified.

<table>
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Source: George Masimba, Dialogue on Shelter. IHS, 2008.
The United Nations Housing Rights Programme (UNHRP) was launched in April 2002, as a joint initiative by UN-HABITAT and the Office of the United Nations High Commissioner for Human Rights (OHCHR).
Read more...

UN Special Envoy on Zimbabwean evictions briefs Security Council
New York - 27/07/2005

The United Nations Special Envoy on housing evictions in Zimbabwe, Mrs. Anna Tibaijuka, today briefed the Security Council on her two-week visit to the southern African country where the demolition of housing and markets have left some 700,000 people without homes or businesses.
Observation for the way forward 5

1. The numbers and intensity of evictions, like in the cases of Kibera’s total population and Port Harcourt’s slum clearance, are close to conventional wisdom

2. The need to nail down data and typology of evictions can not be more emphasized as critical condition to move forward any agenda on the theme

3. UN-HABITAT is not able to accomplish this without full engagement of civil society actors and Habitat Agenda partners in the countries
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Forced Evictions as a theme:

Who is interested? How popular is this theme in development practice?
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<td>Habitat Debate Vol. 13, No. 4, Healthy Cities</td>
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*Countries where evictions are being reported?*
Top 30 Publication Downloads (Nov 2005 to Present)

AGFE report 1 was downloaded 2979 times (ranked 21st)
AGFE report 2 was downloaded 2593 times (ranked 30th)
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<td>Quick Guide 4: Eviction 2011</td>
<td>2011</td>
</tr>
<tr>
<td>Forced Evictions, Global Solutions 2011</td>
<td>2011</td>
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</table>
Number of Visitors to Housing Rights Documentation at UN-HABITAT’s site

From
Jan 1, 2008 (12:00 AM)
To
Sep 1, 2011 (2:59 AM): 56,633 visits
<table>
<thead>
<tr>
<th>Publication</th>
<th>Year</th>
<th>Number of Downloads</th>
</tr>
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<tr>
<td>Forced Evictions- towards solutions</td>
<td></td>
<td>2,589</td>
</tr>
<tr>
<td>Other publications not available on google print</td>
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</table>
Observation for the way forward 6

1. There seems to exist a discrepancy between the interest manifested by hits and visitors to the website and the intensity and scale that we are all claiming about evictions.

2. Better counting, reporting and monitoring are necessary in support to our arguments for policy changes and improved security of tenure in line with the human rights to adequate housing.

3. Stronger and wider partnership, institution building and capacity development are vital.
0. Keeping our goal clear and on focus
   • Achievements at international level
   • Eviction, relocation, displacement…
   • Understanding the meaning of housing
   • Progressive realisation of the right to adequate housing
   • The mandate: HRBA to development
   • Global and local trends
   • Kibera: getting the right numbers
   • The problem: forced evictions on the rise
   • Forced Evictions as a theme
   • Land: a critical variable in the eviction equation
   • UNHRP
   • UN-HABITAT AH4all Programme: a framework for future activities by UN-HABITAT
LAND:

A vital element in the eviction equation where policies and instruments are in great need.
UN-HABITAT sees tenure security as “the right of all individuals and groups to effective protection by the state against forced eviction.”

**Under international human rights law**, secure tenure is one of the seven components of the right to adequate housing, which is again linked to land.
Tenure security for UN-HABITAT

Under international human rights law,
The seven (7) components of the right to adequate housing:

1. availability of services, materials, facilities and infrastructure,
2. affordability,
3. habitability,
4. accessibility,
5. location and
6. cultural adequacy.
7. security of tenure

All these human rights apply equally to men and women, and women’s equal rights to adequate housing, land and property is firmly entrenched in international law.
The way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land. In other words, tenure reflects relationships between people and land directly, and between individuals and groups of people in their dealings in land.
Some HLP-related Tools

See http://www.gltn.net
Continuum/range of land rights

- Perceived tenure approaches
- Occupancy
- Adverse possession
- Leases
- Customary
- Anti evictions
- Group tenure
- Registered freehold

Informal land rights → Formal land rights
1. The focus on land rights and on the legal protection is extremely important but not sufficient

2. Land management instruments that safeguards the public interest and benefits the collectivity must be disseminated e.g. land sharing, plus-valia, land value capture, development rights, adverse possession (eg. Colombia, Brazil, India, Thailand)

3. Knowledge, institutional capacity and empowerment are vital to move this agenda locally, nationally and globally, with stakeholders’ roles well-defined.
0. Keeping our goal clear and on focus

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11. UNHabitat

UNHRP
United Nations Housing Rights Programme

A difficult and bumpy road
UNHRP Objectives and Mandates

• **General objective:** To support a human-rights based approach to human settlements development

• **Specific objective:** To assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda to ensure the full and progressive realization of the right to adequate housing as provided for in international instruments

• **Mandates:**
  Resolution 16/7 by Commission on Human Settlements adopted in May 1997
  Resolution 2001/28 by Commission on Human Rights adopted in April 2001
Akers and Experience

Knowledge for advocacy - UNHRP Report Series
UNHRP outputs

Housing and ESC Rights Law Quarterly

Vol. 5 No. 2 June 2008

Challenging Inner City Evictions Before the Constitutional Court of South Africa: The Occupiers of 51 Olivia Road Case

Introduction

On 19 February 2004, a constitutional court heard a case brought on behalf of residents of a directive of the inner city of Johannesburg who had been living in the area. The Court was aware that the city of Johannesburg had provided the residents with alternative accommodation and also with the right to return to their original homes under the new rights to housing. The judgment had significant implications for any future cases involving similar situations and similar people. However, in its judgment, the Court stated that the need for prior notice of eviction was to be placed in context with the new law and that the procedures under the new law were not the same as under the old law. The Court therefore rejected the application for the eviction.

Background

During the height of apartheid, from 1960 to 1990, the inner city of Johannesburg was seen as a white residential and commercial area. The eviction of the residents from their homes in the inner city of Johannesburg is a matter of concern.

Centre on Housing Rights and Evictions

Fact Sheet No. 21 (Rev. 1)

1. Challenging inner city evictions before the Constitutional Court in South Africa
2. Decision of 51 Olivia Road case
3. Background: apartheid and urbanisation in Johannesburg
4. The Constitutional Court of South Africa
5. Challenging inner city evictions
6. Background: apartheid and urbanisation in Johannesburg
7. The Constitutional Court of South Africa
8. Challenging inner city evictions
9. Background: apartheid and urbanisation in Johannesburg
10. The Constitutional Court of South Africa
11. Challenging inner city evictions
12. Background: apartheid and urbanisation in Johannesburg


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Promotion of indigenous peoples’ rights to adequate housing and rights to the city

Invitation to the Special Session on “Challenges Faced by Indigenous Peoples in Urban Areas”
5 November 2008, 09:00 – 12:00, room M 303A
## Development of housing rights monitoring and evaluation mechanism

<table>
<thead>
<tr>
<th>Indicator number</th>
<th>Underlying concept</th>
<th>Housing rights indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>HRI-1</td>
<td>Habitability (Crowding)</td>
<td>Average number of persons per room</td>
</tr>
<tr>
<td>HRI-2</td>
<td>Habitability (Durability/quality)</td>
<td>Proportion of households living in permanent structures in compliance with building codes and bye-laws</td>
</tr>
<tr>
<td>HRI-3</td>
<td>Accessibility of services (Water)</td>
<td>Proportion of households with access to potable water</td>
</tr>
<tr>
<td>HRI-4</td>
<td>Accessibility of services (Sanitation)</td>
<td>Proportion of households with access to adequate sanitation</td>
</tr>
<tr>
<td>HRI-5</td>
<td>Affordability</td>
<td>Proportion of monthly household median housing expenditure to total monthly household income</td>
</tr>
<tr>
<td>HRI-6</td>
<td>Security of tenure</td>
<td>Proportion of households with legally enforceable contractual, statutory or other documents that provide security of tenure</td>
</tr>
<tr>
<td>HRI-7</td>
<td>Homeless population</td>
<td>Current number of homeless persons per 100,000 population</td>
</tr>
<tr>
<td>HRI-8</td>
<td>Forced eviction</td>
<td>Persons subjected to forced evictions per 100,000 population over a 5 year period</td>
</tr>
<tr>
<td>HRI-9</td>
<td>Legal framework (International norms)</td>
<td>Can international norms and standards on rights to adequate housing be invoked in domestic courts?</td>
</tr>
<tr>
<td>HRI-10</td>
<td>Legal framework (Timeliness of dispute settlement)</td>
<td>Average number of months taken to settle disputes related to the right to adequate housing in the courts and tribunals</td>
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<tr>
<td>HRI-11</td>
<td>Legal and institutional framework (Legal entitlements and local mechanisms)</td>
<td>Is there a legal entitlement to free or subsidized access to information/consultation, legal aid and redress in cases of violation of the right to adequate housing?</td>
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<td>HRI-12</td>
<td>Institutional policy framework (Housing assistance)</td>
<td>What is the proportion of a target group (e.g., those living below poverty line) that receive assistance related to housing?</td>
</tr>
</tbody>
</table>
Advisory Group on Forced Evictions (AGFE)

- Advises the Executive Director of UN-HABITAT in addressing unlawful forced evictions
- Promotes alternative policies
- Fact-finding missions to Greater London, Port Harcourt, Istanbul, New Orleans, Buenos Aires...
- Limitations and ambiguity!
- Roles: Advisors x Activists x expectations
Housing rights and forced evictions in development context - Lessons Learned

• Turning housing rights violations into inclusive approaches requires effective translation of international housing rights legislation into domestic law and its enforcement.
• In cases of large-scale forced evictions, multi-actor fact-finding missions can generate visibility and global pressure.
• Concerted interventions by UNCTs can make a difference, due to their leverage.
• Need for mainstreaming of eviction impact assessments in UN programmes to ensure that resettlement does not lead to externalisation of costs at the detriment of people who are already poor, dispossessed and politically not well represented.
Observation for the way forward

1. Without funding there is little impact at any level;
2. There is a demand for quick guides and information on how to put in place appropriate housing policies
3. Language and application of human rights principles to housing and urban development are still inadequate and insufficient
4. Partnership with various institutions (national, international, local) is key to develop evidences and chances for multiplication.
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• UN-HABITAT AH4all Programme: a framework for future activities by UN-HABITAT
A framework for future actions.

The global housing strategy
<table>
<thead>
<tr>
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<tr>
<td>Event</td>
<td>Habitat I, Vancouver</td>
<td>International Year of the Homeless</td>
<td>Habitat II, Istanbul</td>
<td>Millennium Summit</td>
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<td>Key Issue</td>
<td>Recognition of Slums, Self-help Housing</td>
<td>Housing &amp; Shelter in the International Agenda</td>
<td>Shelter for All advocacy, Right to Adequate Housing</td>
<td>Slum and Poverty on the International Agenda</td>
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<td>Intern. Agenda</td>
<td>UNCHS</td>
<td>Global Shelter Strategy for the Year 2000 - GSS</td>
<td>Sustainable Urban Development</td>
<td>?</td>
<td>?</td>
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<tr>
<td>From Government Supply</td>
<td>To Market Supply</td>
<td>Enabling Strategies</td>
<td>The HABITAT Agenda</td>
<td>The MDG 7 Target 11</td>
<td>?</td>
</tr>
</tbody>
</table>
MTSIP-FA3: From Strategy to Programme Response

Global Housing Strategy

RBM compliance

To the Year 2025

Draft GHS 2025

Global Housing Strategy for the Year 2025 adopted by General Assembly
Enhanced Knowledge on the State of Housing in the World

1. Housing indicators,
2. State of Housing Report
3. Improved Housing Policies Adopted & Implemented
4. MTSIP FA3 results

Draft GHS 2025

Global Housing Strategy for the Year 2025 adopted by General Assembly

New Global Housing Policy Document for the Year 2025 & Policy Framework

Habitat 3 Conference

Presentation & Global Advocacy

Housing Sector Profile Studies
Policy, Data Selected countries, references

Citywide Slum Upgrading Programmes Documented
Information on slums, case studies, cities, toolkits & instruments

Global Urban Observatory-GUO
Housing indicators, slums, empirical evidences

UN-HABITAT experience drawn FA4, FA5, ENOF
Case studies, international literature, experiences

Others: OECD, WBI, Cities Alliance, HC, IADB, SDI, ACHR, HIC
Additional data on housing & references on practices

1c. Adequate Housing for All Programme

FA 3 Objective: Access to land and housing for all

FA3 Strategic Result: National and local governments and Habitat Agenda Partners implement improved land and housing policies

Component 1: Housing sector reforms
Component 2: Global Eviction Monitoring & Prevention
Component 3: Slum upgrading & prevention

Adequate Housing for All Programme

Contribution to the MTSIP FA 3
Many actors such as:

- COHRE
- HIC
- SDI
- ACHR
- AI
- HRW

Global Eviction Monitoring Facility

Component 2 - UNHRP
Public neglect is such that one does not even notice that the picture is upside down!
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The END

UN-HABITAT
FOR A BETTER URBAN FUTURE

Thank You.