

THE SH/FT

#RIGHT2HOUSING

THE RIGHT TO HOUSING FOR RESIDENTS OF INFORMAL SETTLEMENTS

Made possible with the support from:



IDRC | CRDI

International Development Research Centre
Centre de recherches pour le développement international

Canada

INTRODUCTION

The number of people living in urban areas, such as towns and cities, is growing at an astonishing rate. Currently, more than half of all people in the world live in these areas and this is expected to increase to 70 per cent by 2050.

For many urban dwellers, a lack of availability or affordability means that they struggle to find homes within the formal housing market. This lack of housing pushes people to the margins, forcing them to exist outside of the recognised blocks and streets of the city. Unable to access formal housing, people must, instead, construct their own homes or inhabit abandoned buildings, and build or join communities that exist without legal title or secure tenure. This is a reality experienced by about one quarter of all urban dwellers - 883 million people.

The United Nations Special Rapporteur on the Right to Adequate Housing, has visited numerous informal settlements around the world. In these often overcrowded living spaces, she has discovered horrendous violations of human rights. In a large settlement in Mumbai, India, she found rodent infestations caused by a lack of waste removal. In Seoul, South Korea, she met with residents of half-demolished informal homes, strewn with rubble, on the

site of violent forced evictions. And in Buenos Aires, Argentina, she visited an unrecognised settlement which emergency services refuse to enter.

However, informal settlements are also extraordinary human accomplishments and those living there have a strong sense of community. Streets are named, houses are numbered, and public spaces are built. In fact, despite their informality, informal settlements often critical to the economies of most major cities and are a major provider of housing around the world.

Informal settlements are vital to nations, cities, and particularly to the people living within them and their struggle for space and for acceptance within their communities. It is vital to advocate the right of informal settlers to exist informally, and to define for themselves what it means to live in dignity. States have a legal commitment to improve living conditions within informal settlements, and to bring the housing therein up to human rights standards. The Special Rapporteur has put forward recommendations regarding how governments can upgrade their informal settlements within a human rights-based framework, to create rights compliant housing for all people therein.



1/4 of the total world's urban population live in informal settlements



25%

WHAT ARE “INFORMAL SETTLEMENTS”?

“Informal settlements” refer to any residential areas which fall outside of the formal housing system, and which have been established and constructed without the consent of the relevant authorities, or without complying with established building, planning, or land usage laws.

The term consequently covers a wide range of different living arrangements. Perhaps the most emblematic of these are the sprawling areas of shack housing on the margins of cities such as Mumbai and Nairobi, which are defined by the precariousness of their construction and the poverty of their residents. But informal settlements may also include long-established communities living in durable houses made from brick and mortar, as well as people living in squats, boats or other improvised shelters. The largest informal settlement, Orangi Town in Karachi, Pakistan, is home to an estimated 2.4 million people. The smallest may only contain a handful.

These places are commonly referred to, even in authoritative human rights documents, as “slums”. This term is not used here as it is deemed pejorative and recognised as having led to bad policy: “slums” are often viewed as a problem requiring “clearance” rather than as valuable communities that should be supported. However, it is important to not promote the term “informal settlements” as the only way to identify these places. Instead, it is recognised that ownership of such settlements, and of the right to name and define them, lies in the hands of the people who live there. Accordingly, it is they who must decide what term best matches their living environments.

Informal settlements are homes; places where people live, work, build communities and start families. Whatever they are named, it is vital that they are primarily recognised as such and that residents be regarded as important, rights-holding citizens.

UPGRADING INFORMAL SETTLEMENTS IS NOT SIMPLY A POLICY CHOICE – IT IS A LEGAL OBLIGATION



THE DUTY OF STATES TOWARDS INFORMAL SETTLEMENTS

The international community has made it clear that States must ensure to all of their citizens, including those living in informal settlements, a standard of housing which is acceptable for human life and that provides its residents with dignity. This means that where current housing does not meet these standards, States must take concerted steps to improve it.

Recognition of human rights and the duties these prescribe must be at the heart of every State's informal settlement upgrading policies.

Informal Settlements and the Right to Adequate Housing

The most authoritative duty States are under regarding informal settlements is imposed by human rights law. The residents of informal settlements, as is the case for all people, have a legally-binding human right to adequate housing which must be respected, protected and fulfilled by their governments.

The right to adequate housing requires that people have places to live which meet certain standards. These standards are that housing should:

(a) provide its residents with security of tenure, meaning that they cannot simply be evicted without good reason and proper procedures being followed available;

(b) have available services, materials, facilities and infrastructure, meaning that they should contain everything needed for human life and comfort, such as water, sanitation and energy;

(c) be affordable, in the sense that the costs associated with living there should not prevent residents from achieving other human rights;

(d) be habitable, meaning that they should be an adequate size for their occupiers and should protect them from the elements;

(e) be accessible, allowing disadvantaged and marginalised groups to access adequate and appropriate housing;

(f) be suitably located to allow access to resources, employment and services; and

(g) be culturally adequate, in the sense that housing must enable people to express their cultural identity.



Informal Settlements and the SDGs

States have also made important commitments regarding informal settlements within the Sustainable Development Goals (SDGs), the aim of which are to create a more sustainable, equitable and poverty-free world by 2030.

In working towards this objective, Goal 11 of the SDGs, requires States to ‘upgrade slums’ by the year 2030. This is attached to the broader target of ensuring all people can access “adequate, safe and affordable housing” by the same year, and requires States to immediately begin reducing the proportion of people who live within informal settlements and inadequate housing by formalising and improving conditions therein.

Other SDGs also require informal settlement upgrading to take place in order to be achieved. Goal 6, requires States to ensure access to safe water and sanitation for all – something which is so often absent in informal settlements. Equally, Goal 1, requires States to eliminate poverty – an objective which requires dedicated efforts to meet the needs of the poorest members of society, many of whom live informally.

A HUMAN RIGHTS-BASED APPROACH TO INFORMAL SETTLEMENT UPGRADING IS AN ESSENTIAL COMPONENT OF A BROADER COMMITMENT TO BRING HUMAN RIGHTS TO CITIES

KEY CONSIDERATIONS IN INFORMAL SETTLEMENT UPGRADING

In order to upgrade informal settlements in line with this approach, it is essential that states and practitioners take into account a number of important considerations and use these to develop their plans and the implementation of their projects. These considerations, which have been devised with input from informal settlement residents, rights experts, and States, cover several dimensions of the upgrading process. Implementation of all of them are necessary if States are to upgrade informal settlements in accordance with a human rights-based approach.

This section sets out these key considerations to provide a guide for anyone implementing upgrading projects. All informal settlements are different, and each will require an upgrading strategy which is tailored to the specific needs of the community and its members. However, these considerations do represent a minimum set of guidelines that must be ensured in all upgrading projects.

Creating adequate spaces for informal settlement upgrading

When upgrading informal settlements, practitioners must ensure that residents have legally sanctioned access to adequate land on which to live. Without access to land, upgrading cannot take place at all and entire populations may be made homeless. This would represent a serious breach of the human right to housing.

Important principles to recognise when seeking to create adequate spaces for informal settlement upgrading are:

Residents should be protected from eviction

A human rights-based approach to informal settlement upgrading requires that residents should be ensured security of tenure over the land on which they live. According to the previous Special Rapporteur, security of tenure means that States should adopt laws and policies which “[enable] one to live in one’s home in security, peace and dignity. The principle of security of tenure is a universal right under international human rights law, and applies to all people, whether they have formal title over the land on which they live, or not.

Accordingly, in order to ensure security of tenure, people living in informal settlements must not be evicted from their homes and removed from their settlements. Evictions are almost always indicative

time and are therefore likely to have important social, cultural and economic attachments to these spaces. Fulfilling inhabitants’ right to remain in situ helps to maintain their local connections, protects the social cohesion of the community, and avoids disrupting livelihoods (which is particularly important as many informal settlement residents also work in and around their communities.)

Any time residents must be relocated, whether on a temporary or a permanent basis, States must ensure that relocation sites are in the vicinity of the original site, have access to necessary basic services such as water, sanitation and electricity, and should maintain access to livelihoods. Authorities must compensate residents fully (both in real and personal terms) for any costs associated with relocation. Relocation sites must provide land and housing to

Forced evictions are an egregious violation of human rights law and should never be undertaken in any circumstances.

of flawed processes and a lack of meaningful engagement with the people living in settlements. In ending evictions of informal settlement residents, States must immediately halt any existing legal procedures for eviction and courts should refuse to authorise any current or future eviction applications.

Upgrading programmes should allow residents to remain in situ and relocation should only be allowed in very limited circumstances

The right to remain in situ means that informal settlement upgrading programmes should focus their efforts on creating rights-compliant housing for residents on the site of the current informal settlement. Informal settlement residents may well have lived in their areas for considerable periods of

residents that are of equal or better size and quality as the sites and houses they left.

States should revise their laws to recognise informal settlements and adopt inclusionary planning and zoning

Planning and zoning rules and policies can be vitally important to the development of all urban areas and can assist in creating human rights compliant cities. However, in some circumstances these rules have been applied punitively or discriminatorily in order to deny informal settlement residents access to vital services, to prevent relocation to locations in the immediate vicinity of the existing settlement, as is required, or simply to forcibly evict residents. In Lagos, Nigeria, for instance, the Urban and Regional

Planning and Development Law of 2010 retroactively granted authorities the power to seal up and demolish structures which breached Lagos planning laws. This resulted in the demolition of the informal settlement of Makoko, which housed around 85,000 people.

Development proposals should be properly and independently scrutinised and should be rejected if they fail to provide adequate housing for people already living in areas earmarked for development.

Where adequate housing is unavailable, States should provide new arrivals to cities with access to serviced land and building materials.

Where it is not possible to formally house new arrivals into cities, States should set aside or acquire land, which can be divided into plots and be allocated to arrivals in order to satisfy their housing needs. This land must be provided with access to basic services, such as water, sanitation and electricity. Temporary shelters should be provided whilst permanent houses are built on the plots.

If land is in short supply, tax incentives should be provided to landowners in order to encourage them to make vacant plots available for new housing.

If residents are required, or wish, to self-construct their homes, the government should provide them

with economical building materials which enable them to do so.



Key Considerations:

- Do not evict residents of informal settlements
- Allow residents to remain in situ and only relocate as a last resort
- Revise laws to recognise informal settlements and adopt inclusive planning and zoning
- Provide new arrivals with serviced land and building materials



Positive example regarding in situ upgrading:

In the case of Melani, heard by the South African High Court, the Slovo Park informal settlement challenged the decision of the City of Johannesburg to not undertake in situ upgrading and instead relocate residents 11km away. The Court held that relocation must be “the exception and not the rule” and any relocation must be to a location “as close as possible to the existing settlement”. As a result, the Court ordered the City to reverse the decision to relocate the community and to apply for funding for in situ upgrading.

Ensuring the needs and rights of residents are met

In order to ensure that the needs and rights of residents are met during upgrading, States should ensure that their projects abide by the following recommendations:

The diverse circumstances of all households in the informal settlement should be recognised and the needs of marginalised groups should be addressed

The residents of informal settlements are as diverse as those in any other community and they have wide-ranging circumstances and needs. In order for an informal settlement upgrading programme to be successful at improving the lives of residents, actors must understand these circumstances and needs, and properly address them in the planning and implementation of the project. Addressing these needs will enable the creation of a more inclusive and safe upgraded community which provides a better living environment for all of its residents.

Upgrading programmes must give attention to the experiences of women, persons with disabilities, migrants, non-citizens, the elderly, children, and any other vulnerable groups which are identified as living in the settlement. These groups will often have very important needs which, if not understood and met, can significantly impact on their quality of life.

Environmental risks should be assessed and responded to in order to prevent these from harming residents or damaging their property

Residents of informal settlements are often at heightened risk from environmental events such as landslides, earthquakes and flooding. This risk is further exacerbated by the fact that residents are generally unable to construct houses that can withstand such disasters and often establish settlements on land that is in high environmental risk or suffers from contamination. As a result, when environmental disasters strike, death tolls in informal settlements are vastly higher than they are in formal housing areas.

States must implement measures to protect residents against any environmental risks which are present and should mitigate these during upgrading. These should draw on the knowledge of the current and former inhabitants, who are likely to have the greatest understanding of these risks and the current methods of managing them. Disaster risk management, however, should never be utilised as an excuse for displacing communities.

The links between adequate housing and access to livelihoods in the informal settlement should be recognised, and economic development within settlements should be supported

Informal settlements are commonly bustling centres of economic activities with residents working in diverse roles including as builders, recyclers, mechanics, vendors, and hairdressers. Informal settlements are, therefore, not simply places where people live but are also important zones of economic activity.



Good practice DRM:

The Bang Bua settlement in Thailand was prone to flooding from a canal, which often caused damage to residents' homes and belongings. Officials coordinated with residents to prevent construction in the worst affected areas, improve the structural safety of buildings and provide increased access to the community in times of high water. In 2011 the defences proved able to withstand the widespread flooding following Typhoon Nock-ten, and Bang Bua was the least affected settlement in Bangkok.

In light of this, when undertaking upgrading projects, actors must be highly aware of the need of residents to engage in economic activities within their communities, and should plan and provide appropriate spaces, both inside and outside of homes, where residents can undertake their employment. Poorly designed upgraded housing can have a profound impact on the ability of residents to earn a livelihood and can entrench their poverty. In Delhi, India, for instance, the Kathputli Colony, made up primarily of street performers, relied on the spaces within their informal settlement to perform. However, they were relocated to apartment blocks where their performances could not be seen by the public, and therefore they could not earn money from them.

Discrimination and hate-based criminality against informal settlement residents must be combated

People living in informal settlements report a wide range of discriminatory incidents, such as being denied access to credit, refused basic services, prevented from benefitting from social programmes, and being refused access to public transport, health-care and education, as well as violence and acts of hate. Furthermore, residents are commonly subjected to arbitrary arrest and incarceration. Children are also often bullied in school when other children learn where they live. Such incidents can deeply affect the lives and livelihoods of residents, and can impact their enjoyment of numerous human rights.

Harassment and discrimination of informal settlement residents has also been utilised as a tactic by authorities to remove them from their homes. In British Columbia, Canada, for example, local authorities spread chicken manure and fish fertiliser on an encampment in order to enforce a by-law prohibiting the construction of overnight shelters in parks. Other times, such as in San Francisco and Oakland, California, the United States of America, informal settlement residents have been denied access to basic services, such as water and sanitation, in order to dissuade them from remaining in their settlements.

States must take dedicated measures to end and prohibit these and all other forms of discrimination, harassment and criminality perpetrated against informal settlement residents on the basis of their housing status. Legal proceedings should be initiated against any person or agency found to be using harassment or discrimination as a weapon against informal communities in order to force them away from their settlements. The full force of the criminal legal system should be brought against anyone who subjects informal settlers or their property to acts of hate-based criminality.

THE PARTICIPATION OF RESIDENTS IN ALL ASPECTS OF UPGRADING IS ESSENTIAL TO THE PROGRAMME'S SUCCESS



Violence against women and girls must be investigated and prevented

Women and girls living in informal settlements are at far greater risk of being subjected to violence than the general female population. Conditions within settlements, including insecure houses, dark walkways, and the need to walk for long distances in order to access water, toilets and services create opportunities for men seeking to inflict violence on women, and therefore increase the risk of attack faced by women.

Authorities must immediately work with women in informal settlements to implement strategies aimed at safeguarding them and addressing causes of violence. Knowledge about how violence against women is perpetrated is vital when planning informal settlement upgrading and should be used to construct settlements which minimise risk, for instance by ensuring public spaces are well lit, and all homes are properly securable.



Key Considerations:

- Recognise diverse household circumstances and address the needs of marginalised groups
- Assess and respond to environmental risks
- Understand the links between housing and livelihood and support economic development
- Prevent discrimination against informal settlement residents
- Prevent and investigate violence against women and girls

Promoting Participation

The participation of residents is vital if States are to develop informal settlements within a human rights-based framework. The voices of all people affected by the upgrading project must be heard at all stages of the process, and that these views are properly considered and, where at all possible, implemented.

Participation should not, however, be limited to the provision of ideas and feedback regarding the upgrading process. Rather residents should be enabled to take part directly in the upgrading of their settlements, as workers, managers and monitors of progress.

When seeking to promote participation, consideration should be given to recognising the right to participate at all stages of the upgrading process, ensuring the provision of community-based processes of decision making, integrating the skills and labour capital of residents into the project, and maximising the contribution of women.

The right to participation must be recognised and implemented at all stages of the upgrading process

The right to participation is a fundamental human right and, as such, is not something States can simply brush over when they are upgrading informal settlements. The residents of informal settlements will always be best placed to make decisions regarding their living environment. Without involving residents in the planning and implementation of upgrading programmes, States will lose their vital understanding of the challenges that will be faced in upgrading, and how these should be addressed. Accordingly, efforts must be taken to ensure residents are able to contribute their expertise at all stages of upgrading, from the earliest stage of designing and planning through to completion, monitoring and evaluation.

Enabling participation at all stages can have numerous positive effects on the upgrading projects, the

Informal settlement residents have a right to participate in the upgrading of their communities

the community and the individuals living there. Participation builds local capacity for governance, promotes resourcefulness, maximises efficiency, better adapts the upgrading scheme to local conditions and local ownership and ensures the achievement of sustainable results.

Community-based processes should be established to enable democratic decision-making

Whilst the right to participation requires that all informal settlement residents have a voice in the upgrading process, clearly it is not possible to implement every single individual opinion. Accordingly, effective participation in informal settlement upgrading processes will require informal communities to make collective decisions which can then be utilised to inform the direction of the project.

States must, where possible, rely on existing community decision making structures or assist communities to establish democratic processes through which community decisions can be made regarding upgrading. Communities should be helped to convene regular community meetings, to appoint spokespersons of their own choice, and channels to enable the effective sharing of information between all parties should be established.

Where a decision needs to be taken in upgrading, the upgrading actors must defer to the community for a democratic decision to be made.

The skills and labour capital of residents should be integrated into the upgrading process

Community members should be called upon to take part in all aspects of the creation of the upgraded settlement, including the purchasing of land and

materials, the design and planning of buildings and public spaces, and the physical construction of the settlement.

Integrating the skills and labour capital of residents into the upgrading of their settlement can generate local ownership of the project whilst helping to reduce poverty both in the short term, by paying residents fair wages for their contribution, and in the long term by increasing their employability.



Positive example:

In Hanna Nasif, the United Republic of Tanzania, informal settlement community members who wished to participate in the upgrading project were trained in construction and other areas. In doing so they were provided with a fair income for their work and gained skills which were said to have increased their employment prospects in the future.

Women must be fully included in all aspects of the upgrading programme

Women often hold leadership roles within informal communities, however they are frequently excluded from processes of engagement and participation during upgrading. But women have unique experiences, expertise and insights regarding their settlements, and without reflecting and utilising these, no informal settlement upgrading programme can hope to be successful.

Accordingly, women's participation must be promoted and centralised on equal footing as men and they must be supported in assuming key leadership roles. In societies where women have responsibilities which make it challenging for them to find time to engage in participatory processes, particularly as leaders, efforts must be taken to alleviate some of this burden.



Key Considerations:

- Recognise and implement the right to participation at all stages of the upgrading process
- Establish and support democratic community-based decision-making processes
- Integrate the skills and labour capital of residents into the upgrading project
- Fully include women in all aspects of the process

STATES MUST UTILISE THE MAXIMUM OF THEIR AVAILABLE RESOURCES IN ALL INFORMAL SETTLEMENT UPGRADING PROJECTS



Funding Informal Settlement Upgrading

If informal settlement upgrading programmes are to successfully create housing which meets the definition of adequacy, States must be ready to provide sufficient funding. Indeed, the provision of funding for informal settlement upgrading is not simply a choice – States are required, as a matter of human rights law, to utilise the maximum of their available resources in improving informal settlements.

In this regard, the following considerations should be taken into account:

States must ensure adequate budgeting and resource allocation for upgrading projects

Under international human rights law, States are required to utilise as many of their resources as they possibly can in undertaking their upgrading projects. This means that States must draw up detailed budgets and ensure that sufficient financial resources are allocated to enable them to meet their human rights and SDG commitments.

Proper budgeting must be undertaken in a transparent and accountable way, which allows residents to review decisions and challenge those they deem to be insufficient or unfair.

The provision of credit and microfinance must be undertaken in line with a non-discriminatory human rights-based approach

Very often, informal settlement upgrading programmes rely on the provision of mortgages to residents in order to enable them to afford to

purchase upgraded housing. Despite this, 60 to 80 per cent of informal settlement residents do not qualify for mortgages. Indeed, in sub-Saharan Africa, only 3 per cent of households have access to mortgages within the formal financial system.

In light of the difficulties residents of informal settlements may face in obtaining mortgages, microfinance may be a better option. However, if microfinance is to be a preferred way of funding improvements to housing in informal settlements, efforts must be taken to improve its accessibility and affordability for those who need it. Accordingly, microfinance provision must be monitored, with the participation of residents, in order to ensure it remains affordable and accessible to those who most need it.

It is vital to bear in mind, however, that credit provision should never be the sole strategy in ensuring access to upgraded housing for informal settlement residents. Direct government investment in upgrading must always be the main source of funding and microfinance provision should only ever be complementary to this.

Any informal settlement upgrading projects which are supported by international financial institutions and development agencies must adhere to human rights standards

International financial institutions and development agencies must ensure that all of their operations are undertaken in full compliance with the right to adequate housing and all other human rights.

As well as ensuring that they comply with human rights principles themselves, international financial

Credit provisions should never be the main source of funding for upgrading – States must directly invest in ensuring adequate housing

institutions and development agencies should also ensure their project partners do as well. Agencies and institutions should refuse to fund and implement upgrading projects which do not meet human rights standards. Any funding that is provided should always be made contingent upon the government continuing to comply with these standards.

Private investment in housing and real estate should be redirected to support upgrading and create affordable housing

It has been estimated that to build all of the houses needed to end informality over the next 10 years will cost up to US\$16 trillion. Few, if any, governments have the spending power to meet this housing need – indeed of the US\$16 trillion needed, only US\$3 trillion would be expected to come from public funds. If, therefore, states are to meet their SDG obligation to ‘eliminate slums’ by 2030, it is clear that they will need to rely on private investment to assist them with housing construction costs.

Private investment in housing and real estate is, however, currently less interested in meeting human rights and development goals, and more interested in making money. The global phenomenon known as the ‘financialization of housing’ has turned houses into mere investments, detached from their essential purpose as spaces for people to live in dignity. Nefarious practices such as sitting on vast swathes of undeveloped land in order to increase its value, or purchasing social housing, raising rents and evicting vulnerable tenants are commonplace, and highlight the interests of housing investors lie in profits over people.

But the necessity of private investment to achieving this goal means that it is essential that private investment be directed towards meeting the needs of the quarter of the urban population that lives in informal settlements. This will clearly require a monumental shift in attitude from the private housing and construction sector, and from governments who very often enable and promote the ‘profits over people’ attitude.

Corruption must be ended

Where upgrading schemes are affected by corruption, this leads to increased costs and reduced international financial assistance, and can damage the integrity of the project as a whole. Corruption can, therefore, severely hamper the ability of upgrading projects to meet the needs of residents.

In light of this reality, measures must be put in place by governments to prevent corruption at all stages of the upgrading process, from the acquisition of land through to the allocation of upgraded units. States should implement independent oversight mechanisms to monitor all aspects of upgrading, and these should have the power to instigate legal action against those they identify as having engaged in corruption.



Key Considerations:

- Ensure adequate budgeting and resource allocations
- Provide credit and microfinance in line with a non-discriminatory human rights-based approach
- Ensure that all upgrading projects supported by development agencies and international banks comply with human rights principles.
- Redirect private investment in housing towards informal settlement upgrading
- End corruption

PROPER MONITORING OF PROGRESS AND ENSURING ACCOUNTABILITY WITH REGARD TO GOALS AND TIMELINES IS A CRITICAL COMPONENT OF RIGHTS COMPLIANT UPGRADING

Monitoring Progress and Holding Actors Accountable

Proper monitoring comprises independent oversight processes that are capable of holding upgrading schemes and actors to set standards. These standards, at their heart, must be about ensuring that the right to adequate housing is respected, protected and fulfilled in informal settlements. When breaches of these standards are found to have taken place, mechanisms must also be present which can hold actors accountable for their failure to uphold human rights principles.

The following recommendations highlight what steps are necessary in order to properly enable monitoring and accountability in the context of informal settlement upgrading:

Participatory bodies must be established to monitor progress and hear complaints

The type of body established to monitor the upgrading project will likely differ depending on the context in question, but potential bodies might include ombudspersons or community-led panels. Whichever type of monitoring body is chosen, care must be taken to ensure that it is independent, fair and impartial.

For monitoring bodies to be able to fulfil their role effectively, they must have access to all of the relevant information and data regarding the upgrading process. Monitoring bodies should also be provided with enough resources to allow them to undertake important activities pursuant to monitor-

ing. Typical activities of this type might include conducting community surveys and meeting with residents and upgrading staff to gather information and opinions regarding upgrading. Monitoring bodies may also need to convene public hearings to discuss issues that might arise and hear the concerns of residents.

Once they have appraised the situation on the ground, and have heard from the full breadth of people affected by the upgrading process, monitoring bodies should publicly publish their recommendations, reports and decisions regarding the project. In order to ensure complete transparency and accessibility, these publications should be made available in accessible formats and disseminated to affected groups. When a monitoring body does issue recommendations or highlights concerns regarding the project, these should be taken seriously by governments and should be responded to promptly by all actors involved in the project.

When rights claims arise during upgrading, community-based adjudication should be utilised to ensure residents have access to justice

It is extremely important that any monitoring and accountability mechanisms used during upgrading are appropriate for the populations they serve. Using mechanisms which are located far away from the settlement, which residents do not understand, or which are unable to tailor their operations to the specific needs of members of the community will likely dissuade residents from making rights claims, and therefore prevent proper accountability and monitoring from being achieved.

Accordingly, where possible reliance should be placed on local processes of justice and monitoring, which already exist in the informal community being upgraded. In many settlements, informal or community-based adjudication processes are used to settle disputes and investigate wrongdoing. These mechanisms are often infused with traditional and indigenous practices, operate directly in the communities they serve, and are run by trusted local people. This makes them far more relevant and accessible to informal settlement residents and their decisions are therefore more likely to command the respect of the community.

Ensure that the judicial system protects the rights of informal settlement residents

Whilst community-based adjudication is of great importance to monitoring and accountability during upgrading, it is true that sometimes the formal court system will have to step in and determine disputes which arise. This is particularly so when local and informal models of justice do not exist, or when allegations of rights abuses reach such a significant level that only formal courts may hand down sufficient penalties.

Because of this it is vital that States take major and dedicated efforts to build the capacity of courts and other judicial tribunals to protect and enforce the human right to adequate housing of informal settlement residents. This will require thorough training of the judiciary and other court staff to build their knowledge on housing rights issues and how these relate to informal settlements.

Courts should be required to encourage and hear as broad a range of rights claims as possible. This might include those related to inadequate budgetary allocations, failure to comply with timelines or to meet agreed goals, inadequate engagement with the community, and the failure to consider marginalised groups. Courts should also be capable of holding the government to account regarding its overriding obligation to progressively realise the right to adequate housing.

Provide information and resources to communities and their advocates and recognise residents who claim their rights as human rights defenders

When informal settlement residents or their advocates are seeking to claim their right to housing during upgrading, they must be recognised as human rights defenders and be protected from interference and abuse. It is unfortunately common for police and other security forces to use violence against residents who are trying to uphold their housing rights, for instance by resisting forced eviction. Any use of force against informal settlement residents should be necessary and proportionate. Use of excessive force against community members must be independently investigated and adequate remedy provided to the victims.



Key Considerations:

- Establish participatory bodies to monitor progress and hear complaints
- Use community-based adjudication to hear residents' rights claims
- Ensure that the national judicial system is capable of protecting the rights of informal settlement residents
- Ensure communities and their advocates have access to necessary information and resources and recognise them as human rights defenders.

CONCLUSION

Upgrading informal settlements to bring conditions up to human rights standards is no easy task. To do so by 2030, in line with States' SDG commitments, will require a dedicated effort, not only from States themselves, but from a wide range of national and international actors, and from informal settlement residents themselves.

But whilst upgrading might pose significant challenges, improving the housing of informal settlement dwellers is not a choice. States are legally required to set in motion policies and plan which have as their end goal the fulfilment of the right to adequate housing for all informal settlement residents. They must approach this task in a positive way, seeking to achieve it as soon as is possible, and using all the resources they have available to do so.

Human rights-based, resident-led efforts which have already been undertaken to upgrade informal settle-

ments highlight the positive effects this approach can bring, not only to informal settlement inhabitants, but to towns, cities, and entire countries. Upgrading can reduce poverty, promote economic development and prosperity, and improve the health and well-being of residents. It can also improve equality, increase democratic engagement, and decrease discrimination. Upgrading informal settlements is, therefore, not some burdensome task which drains resources and provides no benefits. It revitalises States, boosts their economies and brings them into line with international standards.

2030 is now only one decade away however too little is still being done. If the vital objective of upgrading all informal settlements is to be achieved, and obligations are to be fulfilled, States must act now. Failing to do so is an egregious violation of the human rights of informal settlement residents.



#MakeTheShift

@Make_TheShift  

info@make-the-shift.org

www.make-the-shift.org

THE SH/FT

#RIGHT2HOUSING



IDRC | CRDI

International Development Research Centre
Centre de recherches pour le développement international

Canada