



## Visit to the Republic of Nigeria by Ms. Leilani Farha, 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

### End of Mission Statement

23 September 2019

#### 1. Introduction

- I conducted an official country visit to Nigeria from 13 to 23 September 2019. I thank the Federal Government of Nigeria for their invitation to visit the country, and the officials I met for their availability and engagement.
- I also thank the United Nations Country Team in Nigeria. Their logistical support during my visit was appreciated. I would also like to thank all of the communities that warmly welcomed me, the individuals and households who invited me in and answered my questions, and civil society organizations for their support during my visit.
- The aim of the visit was to assess the housing conditions of people in Nigeria using international human rights law and standards, and to determine if governments are meeting their obligations in this regard. I focused on particularly vulnerable populations whose rights are most precarious. My assessment included meetings with many government officials<sup>1</sup>, academics, civil society organizations, those in the private lending sector and other experts. I also examined available housing related data, laws, jurisprudence and policies. I travelled to several communities<sup>2</sup> in three major urban centres: Abuja, Lagos and Port Harcourt, and I met with those living in rural settings as well as internally displaced persons. I am grateful and thank all those with whom I met who helped to inform my understanding of housing and related sectors in Nigeria.
- This statement represents my preliminary findings and recommendations. It will be followed by my final report, which will be presented to the UN Human Rights Council in March 2020. I look forward to receiving updated information from civil society and government officials at both levels to inform the preparation of that report.

#### 2. Gross Inequality

- Housing conditions in Nigeria, particularly for those living in poverty, are grossly inadequate. I was shocked to see such inhumane and insufferable housing conditions in the 21st century, particularly in an oil producing country, showing relatively strong economic growth.
- Economic inequality has reached extreme levels in Nigeria. In July 2019, Oxfam reported that close to 70% of the country's population lives below the poverty line. The Brookings Institute estimates that 87 million people (43% of the population) are living in extreme poverty (1.25 USD/day or less) in Nigeria, with this figure growing by six people every minute.<sup>3</sup>
- In 2014, WHO and UNICEF was estimated that 69% of the urban population of Nigeria is living in 'slums' [hereinafter, informal settlements], many of which lack even the most basic of services such as potable water, sanitation services, electricity, garbage collection, and paved roads. According to the 2013 Nigerian Demographic and Health Survey, 57 million Nigerians lack access to safe water, and over 130 million are without access to adequate sanitation.
- At the same time, Nigeria is the 29th largest economy in the world, just behind Norway and well ahead of countries like Singapore and Malaysia. It is considered one of the fastest growing economies in the world, albeit, reliant on the precarious oil market. Between 2004 and 2010 the number of millionaires in the country increased by 44%. It is anticipated that this number will continue to increase.
- This inequality is widely attributed to several factors, including corruption and mismanagement of public funds, and a failure to implement just tax policies, whereby low-income earners pay disproportionately more taxes than do high earning corporations. Less than 6 percent of registered corporate taxpayers are active, and only between 15-40% of the Value Added Tax is collected. Anecdotal evidence suggests much money is being hidden in residential real estate, that is left idle. In response to recommendations by the IMF to address gross inequality in the country, the Government has launched the Strategic Revenue Growth Initiative and is reportedly engaged in a national social protection programme, further details of which I hope to furnish in my final report.
- Under international human rights law, States are obliged to spend the maximum of available resources toward the progressive realization of economic, social and cultural rights including the right to housing. This includes, collecting and imposing taxes, and developing mechanisms to prevent corrupt money from landing in residential real estate or other assets domestically or internationally. It appears that Nigeria is not meeting this standard.

#### 3. Nigeria's Neglected Housing Sector: Case Critical

- Nigeria has a history of successive governments who make grandiose commitments to improve housing conditions and then fail to take adequate measures to realize those commitments. According to the Federal Mortgage Bank of Nigeria, it is estimated that the country now has a deficit of 22 million housing units, a figure steadily rising as urban populations continue to increase at alarming rates. In Lagos, Nigeria's largest urban area, about 70% of the total population lives in informal housing, with the housing deficit at 2.5 million units, according to the State government.

informal housing with the housing deficit at 2.5 million units, according to the State government. In major centres such as Lagos, Abuja, Ibadan and Kano housing demand is growing by about 20% each year.

- Nigeria's housing sector is in a complete crisis. There is no current national housing action plan or strategy. Coordination and communication between federal and state governments seems lacking. Private market housing is unaffordable for most, rental housing is scarce, requires tenants to have one to two year's rent in advance and there is no rent control or caps. It appears that Landlord-Tenant relations are loosely governed and laws that should regulate and protect the right to housing are not enforced. There are few government led housing programmes that the most impoverished can access. There is no social housing. There are scant government housing subsidies to speak of. Informal settlements are ballooning where conditions are inhumane and perhaps the most severe I have seen worldwide. Forced eviction and its threat is rampant particularly for those living in prime locations: even the rule of law can't stop it. Homelessness is escalating, and there are no emergency housing options for those in acute need. Those engaged in the supply of housing complain construction is too expensive, and residents in the private rental sector complain that beyond rent they must pay separate charges for all services including water, sanitation and electricity.
- There is a consensus that the legal framework for land administration, especially the Land Use Act (LUA), is exacerbating the pressures on the housing sector. The manner in which the LUA has been used has resulted in severe consequences for the enjoyment of the right to housing. The LUA vests State Governors with significant management and administrative powers. Governors can grant rights of occupancy and also revoke them based on an "overriding "public purpose". I received many reports of Governors abusing their land administration powers, including granting occupancy rights to family members and friends; defining public purpose in a manner that results in forced evictions of impoverished communities inconsistent with international human rights law, including for luxury developments that often stand vacant – unsold or unused. The LUA also makes land title registration cumbersome and extremely onerous to perfect.
- It is well established that in Nigeria as in many other countries, real estate is used as a convenient place to launder corrupt money, to park excess capital and as a means of financial security for the wealthy. Some argue that evidence of this can be found in the persistent development of luxury end units while thousands of homes continue to sit empty throughout Nigeria.
- I am not convinced that governments fully appreciate the nature and extent of the crisis on their hands. While I learned of a number of new housing programmes, they are market-driven, based on public-private partnerships, depend on private investment and are often abandoned mid way or, once completed, left vacant. Without robust public funding, housing programmes<sup>4</sup> are unlikely to fulfill the needs of individuals and families with no or little income. Also, given their modest scale, existing programmes will hardly make even a small dent in addressing the ever-growing housing need. While officials agreed with my overall assessment of Nigeria's housing conditions, the urgency of the situation as a human rights crisis, resulting in human suffering and premature death, seemed not to have registered. Many officials were at a loss as to what steps to take, indicating that only international finance and technical assistance would make a difference.

#### 4. Lack of Current and Reliable Data

- I spoke with State officials who indicated that the lack of current data is an impediment to developing and implementing effective housing policy. The lack of valid, impartial and recent data relevant to Nigeria's housing sector is a severe impediment to ensuring accountability, measuring progress and implementing effective housing policies in the country. The last census by the National Population Commission dates back to 2006 and is no longer relevant. While the National Bureau of Statistics collects data every 2-3 years in conjunction with the World Bank's Living Standards Measurement study, the data does not include housing specific statistics.

#### 5. Inhumane Conditions in Informal Settlements

- The conditions that I observed in the informal settlements I visited can only be described as inhumane and an assault on human dignity.
- Paragraph 8 of General Comment No. 4 of the Committee on Economic, Social and Cultural Rights (E/1992/23) sets out the conditions that housing must meet in order to be comply with the requirement of adequacy. Most of these standards are not even nearly met.
- According to UN Habitat, 69 per cent of the urban population lives in informal settlements. This lack of security of tenure makes millions of Nigerians vulnerable to forced evictions. I witnessed the great levels of anxiety this causes on families, many of whom have repeatedly been victims of forced evictions, including many in the middle class, and still live in constant fear of a new eviction that could come with little or no notice.
- The homes that I saw during my visit offered very little protection from the heat and the heavy rainfall that characterize the tropical climate in Nigeria. The availability of safe drinking water, energy for cooking, heating and lighting, sanitation and 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 breathed. I received reports of stagnant flood-water causing the proliferation of mosquitos and malaria. Many communities were flooded despite it not being Nigeria's the height of the rainy season. Streets were unpaved and often impassable as a result. For older, less agile persons, or persons using wheelchairs or other walking aids, the majority of the streets I saw would be completely inaccessible, even with assistance.
- None of the homes I visited had running water, boreholes or potable water, thus most families have to pay high prices to access household and drinking water. Those who could not afford fresh water were using contaminated flood water, resulting in cholera and other health issues. I saw few houses with latrines. According to UNICEF, diarrhea kills more than 70,000 children under five years old annually in Nigeria, most of it caused by poor access to adequate water, sanitation and hygiene. Nearly one quarter of Nigerians defecate in the open.
- Amidst all this, I did not observe a single public square or playground available for children, but for one football field.
- Many of the settlements I visited were located next to city centers, in locations that allow access to employment and, critically for waterfront communities, fishing resources. However, the location of those lands also makes them attractive for investment projects, rendering the residents at risk of forced evictions. One of the settlements I visited, in Badia East, Lagos, is sandwiched between piled up shipping containers and a railroad track. The continuous passing of cargo trains exposes the inhabitants to a high risk of accidents, as there is virtually no separation between the houses

its inhabitants to a high risk of accidents, as there is virtually no separation between the houses and the track. Equally, in several irregular settlements I was told that the lack of pedestrian bridges to cross over roads with heavy traffic, has resulted in deaths. According to their reports, pedestrian bridges are only built in more affluent areas.

- In an informal waterfront community in Lagos that I visited, dredging being undertaken as part of a luxury residential housing project in the adjacent lands, was increasingly jeopardizing the ability of residents up the river to access fishing resources. I saw women smoking frozen fish imported from the Faroe Islands because their local fish stocks had been strangled as a result of the new housing development! It is inconceivable that governments would allow the building of luxury homes (that may stand vacant) to deprive some of the poorest communities in the country of their ancestral economic activity, absurdly forcing them to buy frozen fish imported from Europe. This demonstrates the critical need to consult with communities on any project that may affect their livelihoods.
- In my conversations with government officials, I 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 irregular settlements no matter how vibrant, organized and well structured the community. Many officials claimed that the country lacks the resources for improving the material conditions of those communities. However, this fails to acknowledge the human capital at hand. Residents I met are willing and able to take up the task themselves if they are provided with modest materials or even loans to help finance upgrading and a guarantee of security of tenure from government.

#### **6. Forced Evictions contrary to international human rights law**

- In international law, forced evictions constitute a gross violation of human rights including the right to housing. All viable alternatives to an eviction must be explored and only if life-threatening circumstances cannot be mitigated can an eviction take place. If an eviction does take place it must conform to all international human rights standards as contained in General Comment 7 of the Committee on Economic, Social and Cultural Rights and the Basic Principles and Guidelines on Development Based Evictions and Displacement (A/HRC/4/18, Annex).
- Domestic jurisprudence has concluded that forced eviction – at least in the context of waterfront communities – is unconstitutional. The Lagos State High Court held in 2017 that, in 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 Nigerian Constitution.
- Despite this, hundreds of thousands of Nigerians, most of them women and children, have been evicted in recent years from their homes using brutal force (including the lethal use of firearms, arson, arbitrary arrests and assault), which has resulted in deaths, injuries, miscarriages and stillbirths, and 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, resulting in homelessness and further impoverishment. In many instances, evictees relocated to other informal settlements where they were evicted a second or third time and face the continual threat of eviction.
- As a resident of an informal settlement in Port Harcourt told me: "If you remove the roof above my head, you do not need to kill me, I am already dead". Forced evictions also reinforce a cycle of social and economic vulnerability: the urban poor subjected to evictions lose all of their belongings, and often need to relocate to distant areas, losing access to their livelihood, family 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 only the interests of private investors.
- I met with members of communities who have undergone forced evictions, some of them on several occasions, and was touched not only by their suffering, but also their resilience and their capacity to organize themselves and continue to defend their human rights, including the right to housing. This was a highlight of the visit. The role of the NGOs who assist them through legal aid, litigation, capacity building, mentoring and fundraising is truly commendable. I encourage them to continue their critical work, and the Government and the international community to support them with funding and by promoting their participation in public affairs, currently absent.

#### **7. Homelessness**

- Homelessness was referenced by government officials and civil society alike as a known and growing problem, though no statistics have been collected to quantify its extent. I saw people living under bridges in Lagos, and in informal settlements in conditions that are equivalent to homelessness. The conditions of homelessness are extreme, constituting a threat to personal security, health and to life itself. According to information received there are few or no emergency shelters available for those living in homelessness in most cities. Homelessness is the failure of the State to implement the right to housing and is considered an egregious violation, especially in light of its deep connection with the right to life.

#### **8. Criminalization of housing status and income generation**

- During my visit, I was appalled to observe that those who have the greatest need to be protected and assisted by the State are instead stigmatized, persecuted, harassed, extorted, and even arrested and jailed without having ever committed a crime.
- In Lagos, I was informed that a police "Task Force" conducts "raids" or "mass arrests" of poor people found walking along the streets. They are put in trucks and delivered to a "Mobile Court", where they are encouraged to plead guilty to the offence of "wandering without evident means of livelihood", an antiquated and in fact defunct criminal offense. Those arrested must pay a fine of approximately 15,000 Naira (around 42 USD). Those who can show a company ID, have some money at hand, or are dressed in more expensive clothes, may be released. The poorest, who cannot afford to pay the fine, can face imprisonment.
- I am extremely concerned for the blatant disregard of the rule of law that this practice reflects and the reaction of Government officials and representatives of the judiciary to this information. The information was often met with scepticism and if believed it was suggested that the remedy would be for legal advocates to challenge in the courts the imposition of a non-existent law, rather than governments taking action to suspend the discriminatory and exploitive behaviour of the police.
- Often, people living in informal settlements resort to "hawking", the informal sale on the streets of low value items, as a means of livelihood. This practice is seen as a nuisance and therefore banned in many areas, resulting in arrests and extortion by the police. While I understand there may be a



need to regulate certain economic practices in urban areas, its poorest inhabitants should not be punished for their attempts to make a living, in a country where the IMF estimates that the 60 per cent of the economy remains in the informal sector.

- While forced evictions are generally carried out due to economic interests, some local officials also justify them based in the alleged criminal character of its inhabitants. One state-level official with whom I met referred to an informal settlement as “a den of kidnappers and criminals”. Not only is this discriminatory, but it constitutes collective punishment.

#### **9. Conflict-related displacement and housing needs**

- During my visit, I was informed of the critical housing needs of those affected by the civil conflict that started in 2009, including internally displaced persons. According to the UN Office for the Coordination of Humanitarian Affairs, 1.8 million persons have left their homes and remain displaced, while 3.5 million are in the need of shelter, including 412,000 in the need of emergency shelter. Out of the 60.5 million USD required to cover those needs, only 5.2 million had been received leaving 91.4 per cent of their shelter needs unmet.
- I met with internally displaced persons living in an informal settlement in the Federal Capital Territory and witnessed the appalling conditions in which they live. I saw over a hundred children attending a tiny, overcrowded one-room school run with little resources by an NGO, despite living half an hour-drive away from Abuja’s city center and the Federal Ministry of Education. Currently, only 20 per cent of the children affected by the humanitarian situation attend school.
- The IDPs I met indicated that in four years the only assistance they had received from the Government was the initial permission to stay on the land they are occupying, which was granted only informally and without guaranteeing their security of tenure. Some of their houses were marked with signs indicating they were going to be demolished. The lack of security of tenure and the risk of forced evictions affects the majority of internally displaced persons in the country, however, instead of providing durable housing solutions, the Government is prioritizing securing their return to their communities.
- I am very concerned by the extreme vulnerability and additional trauma that internally displaced persons would face should they be subjected to forced evictions, after having fled conflict and persecution. 80 per cent of those displaced are women and children, while 25 per cent are under the age of five.
- I am glad to note that the 2012 National IDP Policy of Nigeria includes the right to housing for internally displaced persons. However, I regret that those rights, included in the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) ratified by Nigeria in April 2012, are not currently enforceable by domestic courts. I encourage the Government to domesticate the Kampala Convention, which would be a positive step in the protection of the right to housing of internally displaced persons in the country.

#### **10. Alarming Treatment of Vulnerable Groups**

- 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. This right is not being upheld for a number of vulnerable groups with whom I met.

##### **Women**

- Women experience sex and gender-based discrimination in almost every aspect of life. In particular, brutal acts of violence within the domestic context are common, despite the enactment of the Violence Against Persons (Prohibition) Act (2015). Though data is scant, one national [demographic and health survey](#) found that close to a third of all of Nigerian women have experienced physical violence, like battery, marital rape and murder, at the hands of their intimate partners.
- I met women in informal settlements who said they had been raped when fetching water and when going to the toilet. Of course, for women in informal settlements it is nearly impossible for them to flee to safety. They have no resources and even if they do choose to leave, if they are found on the road alone, they may be subject to criminal arrest for prostitution. Regardless of where women live (in the informal or formal housing sector), there are few emergency shelters available across the country, and landlords commonly discriminate against single women, refusing to rent to them.
- Women with HIV/AIDS also experience discrimination. Despite the fact that 1.4 percent of the population in Nigeria lives with HIV/AIDS (55% of those with HIV are women), and despite the 2017-2021 National HIV and AIDS Strategic plan, those with the disease experience extreme discrimination and stigma. HIV/AIDS positive women have reported being evicted from their homes and communities, often left homeless as a result of the near absence of emergency shelters or housing options. Female HIV/AIDS positive students have been expelled from university accommodation when they have reported their status.

##### **LGBT**

- Lesbian, gay, bi-sexual and trans persons experience extreme discrimination in Nigeria. The Same-Sex Marriage (Prohibition) Act (SSMPA) adopted during President Jonathan’s tenure, forbids any cohabitation between same-sex sexual partners and bans any “public show of same sex amorous relationship.” It effectively criminalizes lesbian, gay, bisexual, and transgender (LGBT) persons based on sexual orientation and gender identity. Prison terms could extend to 14 years for any such act. Though no one has, of yet, been prosecuted under the law, the passage of the law has increased discrimination and violence against LGBT persons.
- Housing provides no refuge for LGBT persons against this backdrop. Human Rights Watch reported for instance that in February 2014 in Gishiri village, Abuja, a group of approximately 50 people armed with machetes, clubs, whips, and metal wires dragged people from their homes and severely beat at least 14 men whom they suspected of being gay. Three victims told Human Rights Watch that their attackers chanted: “We are doing [President Goodluck] Jonathan’s work: cleansing the community of gays.”
- I also received information that landlords evict tenants they suspect are LGBT or simply will not rent to them. The case of a landlord recruiting a group of men to repeatedly rape his tenants, a lesbian couple, in his presence, was also brought to my attention. The Initiative for Equal Rights (TIERs) reports that they receive 4-5 cases per month of people being evicted from their apartments as a result of their gender identity.

- I heard that many LGBT in Nigeria are forced into gender conformity. Many also live in isolation because friends and family members may also violate the SSMPA if they are found to associate with someone who is LGBT. They are also forced to limit visits by friends who could be suspected to be LGBT to their own domicile, due to 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.
- Twelve states in Northern Nigeria apply sharia law, which penalizes homosexuality by death. I have not received reports of persons having been sentenced to death for same-sex relations.

#### **Indigenous Peoples**

- Though Indigenous peoples have been afforded some political recognition and representation [nationally], I received evidence that they are not treated in a manner that is consistent with Nigeria's international human rights obligations under the United Nations Declaration of the Rights of Indigenous Persons, as well as the right to housing under Article 11 of the International Covenant on Economic, Social and Cultural Rights.
- I met with representatives of the Ogoni tribe in Rivers State who complained of forced evictions contrary to Article 10 of the UNDRIP and Article 11(1) of the ICESCR, and their ongoing struggle to maintain control over their lands and resources. I also met with the Gbagyi community in the Federal Capital Territory. Though 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 in keeping with the UNDRIP Articles 8 and 10. Their peoples continue to live in informal settlements disposed of their land, lacking security of tenure, and are threatened with forced eviction contrary to provisions outlined in General Comments No. 4 and 7 of the Committee on Economic, Social and Cultural Rights.

#### **Persons with disabilities**

- Although Nigeria ratified the 2006 Convention on the Rights of Persons with Disabilities and its Optional Protocol, established an Office of Disability Affairs, and although some States have adopted laws protecting persons with disabilities, they are often held against their will in punitive custody, are frequently regarded as sub-human, and often not provided with any social protection or support.
- Persons with disabilities are commonly arrested en masse by government officials and police, and transferred to "rehabilitation centres" which, according to information I received, are tantamount to the poorest prisons, with extremely overcrowded rooms, deplorable conditions, lack of access to showers and insufficient food. I was told that residents contract preventable diseases such as tuberculosis, and often die prematurely while in the centres. They are then discarded like waste. One witness informed us that he had been sent to a rehabilitation center in 1980, where he had been physically restrained for an entire year. He was denied regular access to showers, limited food, and was physically restrained with chains for an entire year. As he had no money to bribe officials in order to leave, he had to escape.
- To avoid detention in rehabilitation centres, persons with disabilities have formed their own informal settlements or 'colonies', home to those with a diverse range of disabilities - physical, intellectual and psycho-social. These can be found throughout Nigeria. I visited one such colony. The housing conditions in the settlement were rudimentary and utterly inadequate, comparable to other informal settlements I visited - lacking all basic services including many fundamental accommodations necessary for those living with physical disabilities, such as paved roads, and properly graded ramps. Despite the deplorable housing conditions, the community was vibrant and seemingly cohesive in their attempts to assist each other, though most indicated that they could not earn a livelihood and thus were compromised in terms of upgrading their own living conditions.
- In 2018, the Government adopted the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018. This law prohibits discrimination on the basis of disability and imposes sanctions including fines and prison sentences on those who contravene it. It also stipulates a five-year transitional period for modifying public buildings, structures, and automobiles to make them accessible and usable for people with disabilities. The law will also establish a National Commission for Persons with Disabilities, responsible for ensuring that people with disabilities have access to housing, education, and healthcare. The Commission will be empowered to receive complaints of rights violations and support victims to seek legal redress amongst other duties.

#### **11. Access to Justice**

- According to international human rights law, States must ensure access to mechanisms to claim the right to housing so as to secure a remedy for any found violations of the right to housing. In Nigeria, this is impeded in several ways; in particular, Nigeria's constitution renders direct socio-economic rights claims non-justiciable and the rule of law is not followed.
- Nigeria's Constitution creates a hierarchy of rights privileging civil and political rights over socio-economic rights. Though section 16 (2)(d) of Chapter II mandates the State to provide adequate shelter for all citizens, section 6(6)(c) restricts courts from adjudicating on matters within Chapter II. In the case brought by 15 waterfront communities in Lagos in 2016 in an attempt to prevent their forced eviction, the Lagos State High Court found that forced evictions constitute inhuman and degrading treatment contrary to Section 34 of Chapter IV (Fundamental Rights), a justiciable constitutional provision.
- I was extremely concerned to learn that State governments routinely ignore the rule of law in right to housing cases. Amnesty International and Justice & Empowerment Initiatives (JEI) have documented this extensively and no one with whom I spoke within the Government or the judiciary denied this repeated occurrence. For example, in the 2017 waterfront communities case, a Lagos High Court judge issued an injunction restraining the demolition of waterfront homes and the eviction of residents. Just two days later the Governor proceeded with violent evictions in Otodo Gbame displacing over 30,000 residents. A few months later the High Court ruled that the eviction of the Otodo Gbame community residents amounted to cruel and inhuman treatment contrary to Constitutional provisions in section 34. The Court ordered mediation between the parties. The Lagos State government abandoned the mediation and continued to brutally forcibly evict the community. The Court was unable to hold the Governor in contempt of court due only to the executive immunity enjoyed by that office.
- The disregard for High Court orders and judgments makes a mockery of the rule of law, suggesting that State governments do not believe that human rights have value or should extend to the indigent. It takes incredible courage and resources to invoke judicial processes to protect one's home. In a democracy, it is reasonable for residents to expect States to respect the third

branch of government: the judiciary.

- Advocates in Nigeria have used regional mechanisms to claim the right to housing and associated rights. The African Charter on Human and Peoples Rights was successfully used to claim the right to be free from forced eviction using several articles taken together, in particular, rights to property, family and health (see: *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria (2002)*). The Economic Community of Western Africa Commission (ECOWAS) was also used successfully to defend the right of the Bundu Waterfront Community in Rivers States to peaceful assembly and protest against the forced eviction of their community.
- Nigeria's National Human Rights Commission has been active on right to housing related issues. The Commission has an Economic, Social and Cultural Rights Department, and housing is one of its areas of focus. The Commission has the capacity to take individual complaints and has done so with respect to a number of housing issues, in particular allegations of forced evictions. Though they do not have the capacity to hold hearings on individual cases, they can play a mediation role. Several years ago, the Commission created a Special panel that was intended to tour the country to receive testimonies regarding experiences of the forceful acquisition of land and property. Witnesses were permitted to present their cases including with the support of legal counsel. NGOs were also permitted to make submissions. The aim of the panel was to establish the veracity of claims regarding forced evictions as well as to document the extent of human rights violations. The overarching goal was to develop recommendations for government in terms of policy development and implementation, with a view to ensuring human rights standards could be deployed. The panel had travelled to Lagos and Port Harcourt among a few other cities and an interim report was produced. However, the panel was suspended prior to completing its work when President Buhari dissolved the NHRC's Governing Council in 2015. Seventeen communities are before the ECOWAS Community Court of Justice arguing that the Federal Republic of Nigeria and the NHRC violated their right to effective remedy and to be heard without undue delay.
- The NHRC of Nigeria is somewhat constrained by the fact that it has not had a Governing Council since 2015. The Governing Council is the decision making arm of the Commission providing it with policy direction. I was told that while the President has approved members of the Council, he has yet to appoint them.

## 12. Recommendations

- Given the rapid demographic growth and internal migration, the government must immediately green light the collection of impartial census data. The Population Commission must ensure that its next census includes human rights-based indicators relevant to the right to housing.
- A national-level moratorium on forced evictions should be declared by the Federal Government, until adequate legal and procedural safeguards are in place to ensure that all evictions are compliant with international human rights law.
- A national Commission should be established to investigate the gross and systematic human rights violations that took place during past forced evictions, and hold perpetrators accountable. Due to the scale of the violations, a truth commission may be advisable. Such a commission should include access to remedies, such as compensation and restitution.
- Sweeps or mass arrests of vulnerable groups by police or armed forces must be discontinued effective immediately. The federal government must undertake a systematic review of policing practices, particularly with respect to the human rights of homeless persons and persons living in irregular settlements.
- The provisions in Chapter 24 of the Criminal Code and any other Federal or State legislation that discriminates and criminalizes persons because they are poor must be repealed.
- The Land Use Act should be updated to address present-day challenges on the right to housing and incorporate international human rights standards, including the prohibition of forced evictions.
- Nigeria should pursue tax reforms to prevent tax evasion and enhance tax justice in order to reduce in the country's extreme levels of economic inequality.
- Federal and State governments must recognize housing as a fundamental human right, residents as rights holders and housing as a social good. To this end, they must meaningfully engage communities and their representatives in the development of human rights-based housing strategies. These strategies should include: measurable goals and timelines and monitoring and accountability mechanisms. They should be multi-sectoral in approach and aim to enhance federal-state coordination and communication. Strategies must address the structural barriers to adequate housing for the most vulnerable populations, including through consideration of viable housing options for those with no income. Legislation that recognizes the right to housing as a fundamental human right should be enacted alongside rights based housing strategies and mechanisms for claiming this right should be established. My report on this topic provides guidance to ensure conformity of housing strategies with international human rights law (A/HRC/37/53).
- The Government must address homelessness on an urgent and priority basis as a human rights crisis. 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, LGBT persons and those who are HIV/AIDS positive, should be increased significantly. (See my report on this topic: A/HRC/31/54)
- The Government must 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 my 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 communities are to be relocated, applicable international human rights law and standards must be strictly adhered to, including General Comment No 7 (E/1998/22) and the Basic Principles and Guidelines on Development-Based Evictions and Displacement (A/HRC/4/18).
- Specific measures must be put in place to curb investments in residential real estate used for money-laundering. These measures should include: public disclosure of assets, particularly for public officials; the regulation of real estate transactions by banks; and the maintenance of central and State land registers.
- A strategy for dealing with vacant homes should be put in place including the consideration of imposing a tax on vacant homes that is then used to generate genuinely affordable housing. In addition, expropriation of vacant homes for public purposes to address urgent housing need should be considered.
- The Government must domesticate the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and make the specific rights of internally displaced persons set out in the Convention directly enforceable in domestic



courts.

- In the management of the humanitarian situation and the internal displacement, durable solutions addressing the housing needs of internally displaced persons should be prioritized.
- Enact comprehensive anti-discrimination legislation by public and private actors in the area of housing, including the amendment of the Federal and State Tenant Legislation, in order to prohibit discrimination against women, persons with disabilities, HIV-AIDS positive persons, LGBT, persons with disabilities, and other groups.
- Repeal the provisions of the Same-Sex Marriage (Prohibition) Act that discriminate and criminalize based on gender identity.
- Immediately establish the National Commission for Persons with Disabilities and address inhumane conditions in rehabilitation centres with a view to closing them as soon as possible. Ensure that community resources are available to facilitate successful independent living of persons with disabilities in communities including: by providing social and medical support, livelihood resources, employment opportunities and adequate housing.
- The Federal Government should consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
- The President should appoint the Governing Council of the NHRC and take all necessary measure to ensure that the NHRC continues to comply with the Paris Principles governing national human rights institutions. In this context, the NHRC must also be provided with adequate resources to be able to successfully fulfill its mandate.

#### **Annex: Forced Evictions**

On my visit to Nigeria, I learned of the following forced evictions each of which is contrary to international human rights law and standards:

Ototo-Gbame and Ilubirin (2017) affecting more than 30,000 residents. The police, acting with private individuals, used live ammunition and set houses on fire, resulting in at least 11 deaths. Thousands of persons lost their homes and all of their property, their livelihoods, as well as access to schools for their children.

Badia East (2013, 2015 and 2018), homes and business have been demolished and burnt affecting approximately 20,000 persons without any prior notification.

Atiporomoh, Araromi Ale And Mowo Phase II (2013), approximately 1,500 houses were demolished. Thousands of evictees are homeless, and the case is currently at the Supreme Court.

Makoko, Lagos (2005, 2010 and 2012), over 30,000 residents have been evicted by force. Many residents, including children, were assaulted by the police. Houses, churches, and medical clinics were demolished.

Abonnema Wharf, Rivers State (2013), the homes of around 10,000 to 20,000 persons were demolished with the participation of security forces, even though the Rivers State High Court had issued a restraining order in November 2011 against the demolition. The fact that the demolition took place during the rainy season made its human impact particularly harsh.

Njemanze, Rivers State (2009), between 13,800 and 19,000 people were forcibly evicted and their houses demolished ostensibly for the implementation of the city's urban renewal programme.

Zaria (2015), the Kaduna State Government demolished 92 buildings in the Bayan Alhudda-Huda community. This demolition which was carried out amidst heavy rainfall, rendered hundreds of people homeless. The Government notified residents 21 days in advance. The residents of another 267 houses marked for demolition have taken the case to the State High Court, whose decision is still pending.

---

1/ I met with officials from the Federal High Court; Federal Ministry of Environment; Federal Ministry of Finance; Federal Ministry of Foreign Affairs; Federal Ministry of Interior; Federal Ministry of Justice; Federal Ministry of Power, Works and Housing; Federal Mortgage Bank of Nigeria; Housing Authority of Nigeria; Family Homes Fund; Federal Government Staff Housing Board; HRH (Dr) Usman Nga Kupa (Chief of Garki); Lagos State Governor; Lagos State Ministry of Environment and Physical Planning; Lagos State Ministry of Housing; Lagos State Urban Renewal Agency; National Human Rights Commission; National Population Commission; Nigeria Mortgage Refinance Company; Rivers State Ministry of Urban Development and Physical Planning; Embassy of Norway in Nigeria; United Nations Resident Coordinator and Country Team.

2/ I met with communities in Lagos: Ilasan, Ikota (where Maroko residents have been displaced), Makoko and Oniru Estate -including Ototo Gbame evictees-, the Agoegun in Bariga; in Port Harcourt: Agip/UST Waterfront, Nejmanze, Abonnema Wharf, Ogoniland, Echue and Darick Polo; and in the Federal Capital Territory: Karamajiji.

3/ <https://www.brookings.edu/blog/future-development/2018/06/19/the-start-of-a-new-poverty-narrative/>

4/ For example, the Family Homes Fund, the National Housing Fund, and The Federal Mortgage Bank of Nigeria.

[Home](#)

[Frequently Asked Questions](#)

[OHCHR on Social Media](#)

[OHCHR Memorial](#)

[Employment](#)

[Mobile App](#)

[Site Map](#)

© OHCHR 1996-2021

[CONTACT US](#)