

## Addressing Forced Evictions of Roma and Travellers

**"National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities."**

*Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Article 5(1)*

**"States have the primary responsibility to ensure the full realization of all human rights and to endeavour to take steps, (...), with a view to progressively achieving the full realization of the right to housing as a component of the right to an adequate standard of living."**

*Resolution A/HRC/RES/25/17, 2014*

### Main problems that Roma and Travellers face in relation to housing include:

- Discrimination;
- Segregation and ghettoization;
- Temporary solutions such as alternative housing often become more or less permanent, creating new ghettos;
- Negative stereotypes leading to acts of violence and threats of violence;
- Illegal destruction of property;
- Evictions from homes, land and away from city centers;
- No access to clean water, sanitation and heating systems;
- Exposure to environmental health threats;
- Systematic forced evictions of migrant Roma;
- No consideration for cultural adequacy of housing (e.g. forced sedentarization or threat of evictions from semi-permanent sites and forced nomadism);
- Risk of becoming totally itinerant or not recognized as residents.

### Forced evictions from housing and land

The Roma and Travellers have been facing centuries of widespread discrimination, rejection, social exclusion and marginalisation in all aspects of life including housing, land and settlements. The increased forced evictions of Roma and Travellers from their homes, and settlements, in recent years, are widely documented and require action on the part of States, along with support and assistance from regional mechanisms and the international community.

Forced evictions have been defined 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" (General Comment No. 7, (1997), CESCR).

Overall, women and children suffer disproportionately from the practice of forced eviction and are particularly vulnerable to acts of violence and sexual abuse that can result from subsequent homelessness.

### International Legal Framework

The States' obligations to refrain from, and protect persons against, forced evictions from home(s) and land arise from several international legal instruments.

The right to an adequate standard of living is recognized in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Other relevant provisions include the Convention on the Rights of the Child (art. 27, para. 1 and 3), the Convention on the Elimination of All Forms of Discrimination against Women (art. 14, para 2 (h)) and the International Convention on the Elimination of All Forms of Racial Discrimination (article 5 (e)).

While the ICESCR permits the 'progressive realization' of rights subject to availability of resources, there are a number of obligations to which states must give immediate effect, irrespective of their resources. These include the elimination of discrimination. Therefore, if a government's housing policies discriminate against Roma, the government is in violation of its human rights commitments regardless of the level of resources available to that government (General Comment No. 20, (2009), CESCR).

Moreover, the Committee on the Elimination of Racial Discrimination (CERD) emphasises the obligations of state-parties to develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing, to act firmly against local measures denying residence to and unlawful expulsion of Roma and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities (General Comment No. 27, (2012), CERD).

In addition, minority rights, including those listed in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, provide important additional provisions, for example in terms of the right of minorities to participate in decision-making, especially those that concern them.

Whether accompanied with violence, or not, the removal of Roma from their homes or land increases their vulnerability and could pose a risk even to their right to life (E/CN.4/Sub.2/AC.5/2005/2).

### **Housing of Travellers (semi-itinerant populations)**

Although most Roma are today sedentary, Travellers and other communities with itinerant or semi-itinerant lifestyle face specific problems related to housing. The lack of appropriate and culturally adequate accommodation and authorized transit and stop sites often fuels stigma and discrimination Travellers face.

### **Forced evictions and Discrimination**

Discrimination is frequently a factor in forced evictions. According to the Special Rapporteur on adequate housing, forced evictions intensify inequality, social conflict, segregation and 'ghettoization', and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples (Fact Sheet No. 25, 2014).

### **Obligations when an eviction is justifiable**

Forced evictions should only be used in exceptional circumstances. For example, evicting people from derelict buildings or hazard-prone areas may be required to protect their lives and human rights. Yet it is crucial that evictions be carried out in accordance with national and international law. This requires that there be:

- Valid justification for the project and no other possible alternatives to the eviction;
- Adequate notification to affected people and communities;
- Consultation and participation of affected people and communities;
- Access to effective and legal recourse;

- Provisions of adequate relocation and/or adequate compensation before evictions are carried out;
- Prohibition of actions resulting in homelessness or deterioration of the housing and living conditions.

Forced evictions are frequently carried out by governments without meeting any of these aforementioned requirements.

Private actors also often fail to respect human rights, including in terms of forced evictions. Yet States bear the ultimate responsibility to protect persons from becoming victims of forced evictions including by private parties.

### **Preventing forced evictions**

States must respect their international obligations by ensuring that any evictions that are carried out meet the above-mentioned criteria and are conducted in an appropriate manner.

The Special Rapporteur on adequate housing provides practical guidance for the implementation of the right to adequate housing. In her recommendations she offers some guiding principles to address urban tenure insecurity. These include for instance that States should:

- strengthen a variety of tenure forms;
- improve security of tenure;
- balance property rights with the social function of property;
- combat discrimination on the basis of tenure;
- protect women's security of tenure;
- ensure access to effective administrative and /or judicial remedies for violations of the right to adequate housing.

Resettlement plans, where these are necessary, are to be undertaken in consultation with the affected communities. It is essential that the Roma themselves are partners in shaping sustainable policies and programmes to address housing and forced eviction problems they face, through effective participation.

### **Normative standards and further reading**

- [OHCHR/UN-Habitat fact sheet No. 25 on forced evictions \(2014\)](#)
- [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities \(1992\)](#)
- [Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities \(2005\)](#)
- [Basic Principles and Guidelines on Development-based Evictions and Displacement, A/HRC/4/18 \(2007\)](#)
- [Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, 30 December 2013, A/HRC/25/54.](#)
- [Minorities and the United Nations: Human Rights Treaty Bodies and Compliant Mechanisms](#)
- [CESCR General Comments No. 4 \(1991\) on the right to adequate housing and No. 7 \(1997\) on forced evictions](#)
- [Commission on Human Rights resolution 1993/77 on Forced Evictions](#)
- [CERD General Recommendation No. 27 \(Discrimination against Roma\), November 2012](#)