



Submission to U.N. Special Rapporteur on the Right to Adequate Housing

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Submitted by:

Consortium for Street Children (CSC)

Lizet Vlamings – Advocacy and Research Manager

lizet@streetchildren.org / +44 207 549 0218

Undugu Society of Kenya

Hellen Kalinda – Programme Manager

hellen@undugukenya.org / +254 020 445 4280/1

Introduction

The Consortium for Street Children (CSC) and Undugu Society of Kenya submit this joint statement to highlight the situation of individuals living in informal settlements in Kenya for the Special Rapporteur's forthcoming report to the General Assembly in 2018.

This submission focusses on questions 1, 5, 6, and 8 regarding the number of individuals living in informal settlements, the underlying causes and existing law and policy.

Questions

Q1: Data on people living in informal settlements. Please provide data on the numbers of people living in informal settlements, clarifying the definitions used and including disaggregated data by relevant characteristics (gender, disability, age etc).

Kenya

This report adopts the UN-Habitat definition of a 'slum household', which states that a slum household is a household lacking one or more of: improved water; improved sanitation; sufficient living area; durable housing; and secure tenure.¹

According to the Hakijamii 'Slum Upgrading Manual' published in May 2015, an estimated 60 to 80 percent of residents in Kisumu, Mombasa and Nairobi live in informal settlements.² The following excerpt from the Executive Summary provides additional data:

"Kenya's urban population has been projected to grow from 34 percent to 63 percent by 2030. [...] According to Government estimates, demand for new housing units in urban areas currently stands at 200,000 units annually. The result of the shortfall has been the proliferation of squatter and informal settlements and the unmitigated rise in the cost of housing. Based on current estimates, at least 3 million people in urban areas lack access to adequate housing. It is estimated that KShs 310 billion yearly must be generated to begin tackling the housing crisis in Kenya."

Source: Economic and Social Rights Center (Hakijamii), 'Slum Upgrading Manual', May 2015, Executive Summary at p.1.

¹ UN-Habitat, 'The Challenge of Slums: Global Report on Human Settlements 2003' (Revised and updated in April 2010), 2010, p.16, available at: https://unhabitat.org/wp-content/uploads/2003/07/GRHS_2003_Chapter_01_Revised_2010.pdf

² Economic and Social Rights Center (Hakijamii), 'Slum Upgrading Manual', May 2015, available online at: <http://www.hakijamii.com/wp-content/uploads/2016/05/Slum-Upgrading-Booklet.pdf>

Q5: What are the primary reasons for people living in informal settlements? (E.g. Rapid urbanization, loss of land, internal displacement, immigration etc.) Please refer to relevant research or reports.

The Hakijamii 'Slum Upgrading Manual' states that informal settlements in Kenya have developed in response to increasing poverty rates, rural-urban migration and the lack of affordable land and housing for the poor.³

The following have also been found to be the key drivers for people living in informal settlements:

- 1. Lack of security of tenure:** as well as impacting urban form and structure, lack of security of tenure exacerbates the poverty, housing problems, inequality and social exclusion experienced by populations in developing countries.⁴
- 2. Inadequate/lack of public housing schemes:** the poor performance of public housing schemes in supplying sufficient dwellings is linked to the increase in informal settlements. In particular, where these schemes have not addressed the needs of low-income urban dwellers or rural urban migrants, these populations have subsequently generated more slum households.⁵
- 3. Inefficient regulatory frameworks:** Due to the lack of appropriate housing, many people are forced into overcrowded establishments (on average, in many of Kenya's informal settlements there are 5 to 7 people sharing a single room) or rendered homeless.⁶ The combination of a fast growing population and decreases in investment in public housing, as well as poor institutional and policy coordination among state agencies, have driven the generation of informal settlements.⁷

Q6: What laws are in place to protect and ensure the rights of residents of informal settlements, before, during and after any upgrading, if it takes place? Have these laws proven effective? (Please include court decisions)

³ See Hakijamii, 'Slum Upgrading Manual', May 2015, (fn2), Executive Summary at p.1.

⁴ R Sietchiping, 'Prospective Slum Policies: Conceptualization and Implementation of a Proposed Informal Settlement Growth Model', Third Urban Research Symposium on "Land Development, Urban Policy and Poverty Reduction", 4-6 April 2005, Brazil, p.2.

⁵ R Sietchiping, *ibid*, p.6.

⁶ Data provided by National Cooperative Housing Union (NACHU), Kenya; available at: <http://nachu.or.ke/housing-sector-solutions/>

⁷ Dennis Mwaniki et al, 'Urbanisation, Informality and Housing Challenge in Nairobi: A Case of Urban Governance Failure?', 2015, p. 3, available at: http://www.rc21.org/en/wp-content/uploads/2014/12/G2_Dennis-Mwaniki.pdf. See also G Alder, 'Tackling Poverty in Nairobi's Informal Settlements: Developing an Institutional Strategy', (2013) *Environment & Urbanization*, 7 (2), p.85-107.

We refer the Special Rapporteur to Dennis Mwaniki et al's article, 'Urbanisation, Informality and Housing Challenge in Nairobi: A Case of Urban Governance Failure?' for a summary of the relevant laws.⁸ The rights of citizens to accessible and adequate housing, contained in the 2010 Constitution, are addressed at page 9, and the national legislation giving effect to the relevant provisions (the County Government Act of 2012, the Land Commission Act of 2012, the Urban Areas and Cities Act of 2011 and the Land Use Planning Bill of 2015) are addressed from pages 9-10.

Despite this legislation, the inadequacy of the planning approach in Kenya over past decades has meant that informal settlements remain a key challenge; Mwaniki et al's critique of the implementation of the planning approach can be found at pages 14-15. The research notes that there were often no short-term action plans to translate long-term strategies into achievable projects, there were inadequate resources in terms of budgetary allocation and human resource capacity, and the private sector's influence on housing production displaced poorer households in favour of the middle-income population.⁹

Q8: Any additional information about successful upgrading or resettlement projects or experiences that could provide good practices elsewhere. Please also share lessons learned from unsuccessful projects or approaches.

The European Bank for Reconstruction and Development's Resettlement Guidance and Good Practice report is a useful resource providing relevant practical information for resettlement projects.¹⁰

The presence of informal slum settlements is linked to gaps in access to health care including poor living environments, poor quality health care, limited access to health services due to lack of income, transport and insecurity and variation in quality of unregulated health services. In the recent past, there is an increased number of children on the streets who are coming from informal settlements to beg on the streets so as to supplement families' income as well as to join their peers from the same community. With the increase in population and size of informal settlements we anticipate an increase in the number of children on the streets.

⁸ Dennis Mwaniki et al, *ibid*.

⁹ Dennis Mwaniki et al, *ibid*, p.14-15.

¹⁰ European Bank for Reconstruction and Development, 'Resettlement Guidance and Good Practice', 2017, available at: <http://www.ebrd.com/documents/environment/pdf-resettlement-guidance-and-good-practice.pdf>