



Civil Society Forum for the Africities 9 Summit
Kisumu, 17–21 May 2022

Africa's Cities and Forced Eviction

Civil society representatives meeting at Kisumu, Kenya on 15–16 May 2022 welcome the 9th Africities' theme, principles and intended outcomes stated in its concept note.¹ We also support the pledge to implement shared strategies to improve the living conditions of people at the local level, while contributing to the integration, peace and unity of Africa, starting from the grassroots.²

We encourage operationalizing the expressed choice and will to implement the 2030 and 2063 Agenda commitments. As a priority, we citizens of Africa also urge implementation of the human rights obligations shared by all treaty-bound African states and their constituent organs, including local and regional governments and authorities across the human habitat.³

Among these shared duties is the progressive realization of the human right to adequate housing, as guaranteed in the International Covenant on Economic, Social and Cultural Rights.⁴ That treaty binds 51 African states⁵ to prohibit force eviction⁶ as a gross violation of human rights,⁷ in particular, the human right to adequate housing. In such cases, international law upholds the right of victims to reparations and states' corresponding obligations to ensure such remedy,⁸ consistent with African Charter principles.⁹ All city governments and authorities also share the extraterritorial human rights obligations of states to prevent and remedy such gross violations by third parties, both foreign and domestic, operating across borders.¹⁰

The 2030 Agenda also pledges states to make cities and human settlements inclusive, safe, resilient and sustainable by 2030,¹¹ ensuring “access for all to adequate, safe and affordable housing and basic services and upgrade slums.”¹² It pledges the international cooperation of states to “end poverty in all its forms everywhere,”¹³ consistent with the 2063 Agenda determination to eradicate poverty in a single generation.¹⁴ Agenda 2030 partners aim to “ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.”¹⁵ This is to be measured by ensuring security of tenure of all.¹⁶

While this is only an interim political promise, it is consistent with states' obligation ‘to take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.’¹⁷ Consistent with human-rights-treaty-bound obligations, as well as voluntary commitments under the New Urban Agenda,¹⁸ local authorities and public servants must demonstrate their will and choice to protect all forms of tenure acquired in good faith, in order to combat and prevent forced evictions.

Africities pledges intermediate cities to entrench the culture of good governance, democratic practices, gender equality, respect for human rights, justice and the maintenance of the rule of law.

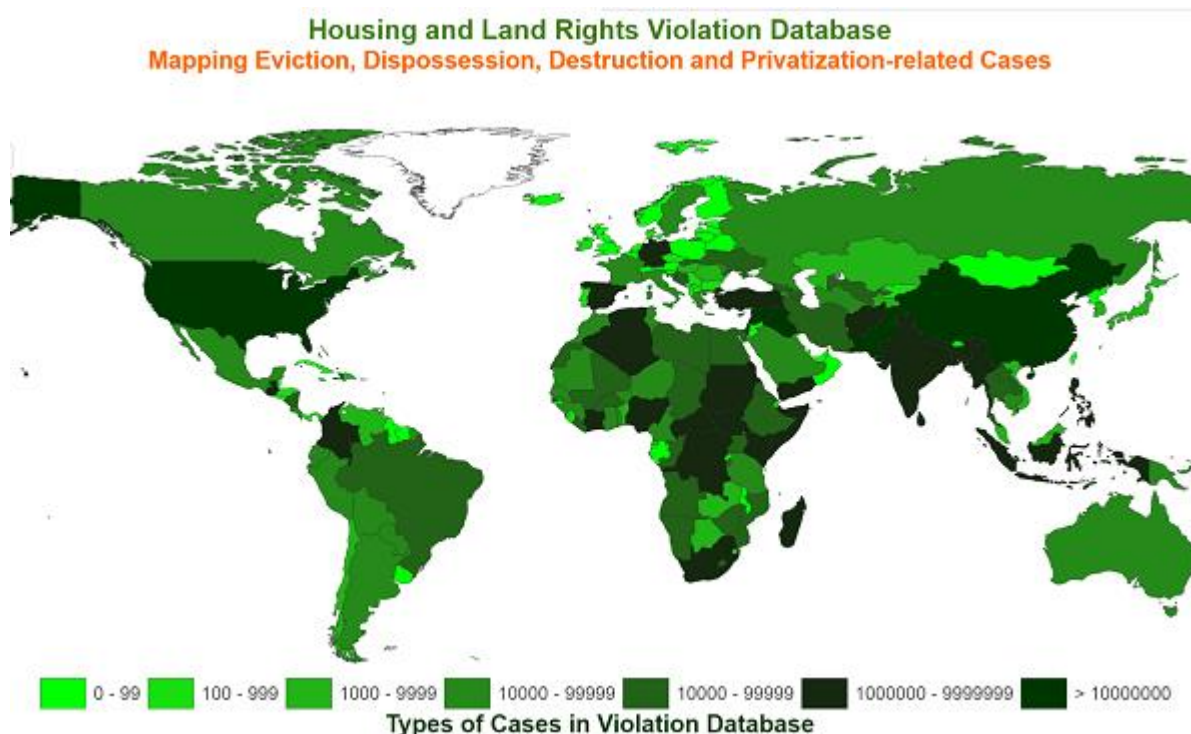
That means local authorities should operate with a sense of accountability to the people who elect and mandate them.¹⁹ That accountability requires them to prevent, prosecute and remedy forced evictions, which have proved to deepen poverty, as well as violate a bundle of human rights.²⁰

The Habitat International Coalition’s Housing and Land Rights Network Violation Database indicates that at least 11,959,550 African citizens have been subjected to punishing forced evictions since adopting Agenda 2063. While not all of these gross violations took place in intermediate cities, this number is by no means comprehensive. And none of these victims—men, women, children and youth—has enjoyed her/his entitled reparations.

While Agenda 2030 and Agenda 2063 refer to human rights-based governance, they only allude to the human rights *obligations* of states and their organs, and omit any reference to states’ obligation to combat forced eviction as a gross violation of human rights and grounds for reparation of its victims.

We note that the intended outcomes of Africities 9 call for “a specific program for the development and planning of intermediary cities” and “a review of planning and development methods in Africa by taking the grassroots as a starting point.” As partners in local spheres of government, we civil society representatives call for the Africities Summit to heed this call to operationalize duties to end the prevailing practice of forced eviction. Only then, could we achieve that goal of an “Africa of good governance, democracy, respect for human rights, justice and the rule of law.”²¹

At Kisumu, Kenya
16 May 2022



Color-coded HIC-HLRN Violation Database map depicting numbers of persons affected by housing and land rights violations as of 16 May 2022. Source: www.hlrn.org.

Endnotes:

- ¹ Africities 9, “African Intermediate Cities and the A.U.’s Agenda 2063,” concept note, undated.
- ² *Ibid.*, p. 7.
- ³ The Habitat II Conference defined habitat as a concept that requires “a regional and cross-sectoral approach to human settlements planning, which places emphasis on rural/urban linkages and treats villages and cities as two ends [points] of a human settlements continuum in a common ecosystem.” The Habitat Agenda, A/Conf.165/14, Annex II, para. 104, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/025/00/PDF/G9602500.pdf?OpenElement>.
- ⁴ Article 11 of ICESCR (1966), <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cescr.pdf>, defined in UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant), E/1992/23, 13 December 1991, https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_GEC_4759_E.doc.
- ⁵ Only Botswana, Mozambique, South Sudan and Western Sahara remain outside the Covenant.
- ⁶ CESCR, General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, 16 May 1997, https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_GEC_6430_E.doc.
- ⁷ The UN Commission on Human Rights (UNCHR) affirmed that “the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing.” See UNCHR, “forced eviction,” resolution 1993/77, 10 March 1993, para. 1, <http://www.hlrn.org/img/documents/ECN4199377%20en.pdf>. UNCHR reaffirmed also that “the practice of forced eviction that is contrary to laws that are in conformity with international human rights standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing.” See “Prohibition of forced evictions,” resolution 2004/28, 16 April 2004, para. 1, at: http://www.hlrn.org/img/documents/E-CN_4-RES-2004-28.pdf.
- ⁸ General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, 21 March 2006, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/496/42/PDF/N0549642.pdf?OpenElement>.
- ⁹ Article 21.2 provides: “In case of spoliation, the dispossessed people shall have the right to the lawful recovery of its property, as well as to an adequate compensation.” African Charter on Human and Peoples’ Rights, 1 June 1981, <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.
- ¹⁰ Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011); https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23; Olivier De Schutter, Asbjørn Eide, Ashfaq Khalfan, Marcos Orellana, Margot Salomon and Ian Seiderman, “Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights,” *Human Rights Quarterly*, Vol. 14 (2012), pp. 1084–1169, <https://www.icj.org/wp-content/uploads/2012/12/HRQMaastricht-Maastricht-Principles-on-ETO.pdf>; Joseph Schechla, “Extraterritorial Human Rights Obligations of Local Government,” Housing and Land Rights Network – Habitat International Coalition (2016), <https://www.hlrn.org/img/documents/ETOs-LGs.pdf>; “All parts of government form one body and must respect international law,” interview with Joseph Schechla by Mieke Zagt, *Article1 Collective* (8 March 2016), <https://www.article1collective.org/2016/03/all-parts-of-government-form-one-body-and-must-respect-international-law/>; UN Committee on Economic, Social and Cultural Rights, General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C-12/GC/24, 10 August 2017, paras. 25–37, https://digitallibrary.un.org/record/1304491/files/E_C-12_GC_24-EN.pdf.
- ¹¹ General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015, Goal 11, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/291/89/PDF/N1529189.pdf?OpenElement>.
- ¹² *Ibid.*, Target 11.1.
- ¹³ *Ibid.*, Goal 1.
- ¹⁴ “Aspiration 1. A prosperous Africa based on inclusive growth and sustainable development,” Agenda 2063 stipulates that “We are determined to eradicate poverty in one generation and build shared prosperity through social and economic transformation of the continent.” African Union, Agenda 2063: The Africa We Want, May 2013, para. 9, <https://au.int/en/agenda2063/aspirations>.
- ¹⁵ *Ibid.*, Target 1.4.
- ¹⁶ *Ibid.*, Indicator 1.4.2: Proportion of total adult population with secure tenure rights to land, (a) with legally recognized documentation, and (b) who perceive their rights to land as secure, by sex and type of tenure.
- ¹⁷ CESCR, General Comment No. 4, *op. cit.*, para. 8(a).
- ¹⁸ New Urban Agenda, A/RES/71/256, 25 January 2017, paras. 31, 107 and 111, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/466/55/PDF/N1646655.pdf?OpenElement>.
- ¹⁹ Africities 9, *op. cit.*, para. 7. Also, in, Member States of the African Union (AU) “Determined to promote the values and principles of democracy, good governance, human rights and the right to development; Cognisant of the mandate of the Public Service and Administration to protect the fundamental values of public service and promote an administrative culture based on respect for the rights of the user...” and guaranteed that “Public Service and Administration and its agents shall respect the human rights, dignity and integrity of all users.” African Charter on the Values and Principles of Public Service and the Administration, Preamble and Article 4, respectively, https://au.int/sites/default/files/treaties/36386-treaty-charter_on_the_principles_of_public_service_and_administration.pdf.
- ²⁰ See iterations of the Violation Impact-assessment Tool, quantifying the costs, losses and damages to habitat, wealth, wellbeing from forced eviction and related violations of housing and land rights, <http://www.hlrn.org/spagenew.php?id=qnE=#.YnW4qOhBy70>.
- ²¹ Africities 9, *op. cit.*, Aspiration 3.