

# HOUSING AS A HUMAN RIGHT: ANALYSING LEGAL MECHANISMS AND STANDARDS AT THE UN AND REGIONAL SYSTEMS \*

## *Bir İnsan Hakkı Olarak Barınma: BM ve Bölgesel Sistemlerdeki Yasal Mekanizmaların ve Standartların İncelenmesi*

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**Abstract:** The right to housing is secured under international and regional human rights instruments, ensuring security of tenure and liveable conditions for a dignified life. Despite these guarantees, many people suffer from insecure housing and inadequate conditions due to economic policies that prioritise market dynamics over human rights. At the international level, Article 11 of the International Covenant on Economic, Social and Cultural Rights guarantees the right to housing, while General Comments No. 4 and 7 provide further details. UN treaty bodies and special procedures oversee its enforcement. Regionally, the right to housing is addressed in Europe through the European Convention on Human Rights (ECHR) and the European Social Charter; in Africa through the African Commission on Human and Peoples' Rights with broad interpretations of rights, and in the Inter-American system, primarily in the context of indigenous peoples' rights. Each system has strengths and weaknesses: the European system, although comprehensive and well-founded, lacks sufficient safeguards against evictions; the African system is interpretative and lacks explicit provisions; the Inter-American system focuses on indigenous peoples' rights and thus offers limited protection. Considering these varied approaches, the United Nations system, with its detailed framework that takes into account economic developments and trends in the modern world, stands out as the strongest model for the protection of the right to housing. This study aims to provide a comprehensive understanding of different approaches to housing rights protection through a comparative analysis of international and regional systems and their protection mechanisms.

**Key words:** Right to Housing, Legal Security of Tenure, Habitability of Housing, International and Regional Human Rights Systems and Protection Mechanisms,

**Öz:** Barınma hakkı, uluslararası ve bölgesel insan hakları belgeleri kapsamında güvence altına alınmış olup, onurlu bir yaşam için kira güvenliğinin ve yaşanabilir koşulların sağlanmasını temin etmektedir. Bu güvencelere rağmen, piyasa dinamiklerine insan haklarından daha fazla öncelik veren ekonomi politikaları nedeniyle pek çok insan güvencesiz barınma ve uygun olmayan koşullardan muzdariptir. Uluslararası düzeyde, Birleşmiş Milletler Ekonomik, Sosyal ve Kültürel Haklar Uluslararası Sözleşmesi'nin 11. maddesi barınma hakkını güvence altına alırken, 4 ve 7 No'lu Genel Yorumlar bu korumayı daha ayrıntılı olarak ele almakta, Birleşmiş Milletler sözleşme organları ve özel prosedürleri ise bu hakkın denetimini gerçekleştirmektedir. Bölgesel düzeyde barınma hakkı, Avrupa'da Avrupa İnsan Hakları Sözleşmesi ve Avrupa Sosyal Şartı aracılığıyla, Afrika'da Afrika İnsan ve Halkların Hakları Komisyonu tarafından hakların geniş yorumlanmasıyla, Amerikalılar arası sistemde ise daha çok yerli halkların hakları bağlamında ele alınmaktadır. Her sistemin güçlü ve zayıf yanları vardır: Avrupa sistemi kapsamlı ve iyi temellendirilmiş olmasına rağmen tahliyeler konusunda yeterli güvence sağlayamamaktadır; Afrika sistemi ise açık hükümler içermeyen, yorumlayıcı bir yapıya sahiptir; Amerikalılar arası sistem ise konuyu daha çok yerli halkların hakları üzerinden ele aldığından geniş kapsamlı bir koruma sunamamaktadır. Bu farklı yaklaşımlar göz önüne alındığında, Birleşmiş Milletler sistemi, ekonomik gelişmeler ve modern dünyadaki eğilimleri dikkate alan ayrıntılı çerçevesiyle, barınma hakkının korunması için en güçlü model olarak öne çıkmaktadır. Bu çalışma, uluslararası ve bölgesel sistemlerin barınma hakkını ele alış biçimlerini ve koruma mekanizmalarını karşılaştırmalı bir analizle inceleyerek, barınma hakkının korunmasına yönelik farklı yaklaşımlar hakkında kapsamlı bir anlayış sunmayı amaçlamaktadır.

**Anahtar Kelimeler:** Barınma Hakkı, Kiracının Yasal Güvenliği, Konutun Yaşanabilirliği, Uluslararası ve Bölgesel İnsan Hakları Sistemleri ve Koruma Mekanizmaları

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## Introduction

Access to adequate housing is a fundamental human right enshrined in a variety of international and regional human rights instruments. This right includes ensuring security of tenure and the habitability of housing conditions, enabling individuals and communities to live in security and dignity. Notwithstanding such protections, large numbers of people around the world continue to experience threats to their housing security and live in inadequate or unsafe conditions. Historically, housing has been considered a matter of economic policy rather than a human right, largely due to its intertwining with market dynamics and property laws. Moreover, this perception ignores the critical role that state policies and legal frameworks play in securing this right. State economic policies and legal measures concerning rental laws play an important role in protecting the right to housing. While economic considerations undeniably influence housing policies, the fundamental human right to housing extends beyond these economic dimensions.

The United Nations (UN) has recognised that international and regional human rights obligations are crucial to ensuring adequate housing and has established extensive criteria for the protection of this right. The right to an adequate standard of living, as defined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) encompasses the right to housing. This right obliges states to respect the freedom of individuals to meet their standard of living, to protect them from unethical practices and to ensure their access to necessary resources. Housing is not just a matter of economic policy but also a cornerstone of human dignity and social justice. International human rights law imposes obligations on states to respect, protect and fulfil housing rights. The Committee on Economic, Social and Cultural Rights (CESCR) addresses individual complaints and issues General Comments to provide guidance to States on their obligations. General Comment 4 of the CESCR outlines the basic principles and seven conditions for adequate housing, while General Comment 7 emphasises procedural protections in cases of forced evictions and the provision of alternative accommodation. In addition, Special Rapporteurs of the UN Human Rights Council assess global progress in the protection of housing rights and provide further oversight and recommendations.

Regional human rights systems also have an important stake in the protection of housing rights, each with its own mechanisms and approaches tailored to the specific contexts of their respective regions. In Africa, the African Commission on Human and Peoples' Rights addresses housing rights violations through individual complaints and state reports. The Commission has developed a broad interpretative approach to housing rights, often linking them to other fundamental rights such as the right to life, dignity, and property. This approach provides a comprehensive protection framework that recognises the interdependent nature of human rights. In the Americas, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights protect housing rights through individual complaints and thematic hearings. The Commission investigates violations and makes recommendations, while the Court's judgements are binding on member states. This dual mechanism allows for both preventive and remedial measures. The Inter-American system often addresses housing rights in the context of indigenous peoples and vulnerable populations, emphasising the importance of cultural vulnerability and historical contexts in its decisions and recommendations.

In Europe, the right to housing has an important practical application through the case- jurisprudence of the European Court of Human Rights (ECtHR) and the European Committee of Social Rights (ECSR's) monitoring and reporting mechanisms. The ECtHR addresses issues such as forced evictions under Article 8 of the European Convention on Human Rights (ECHR) and highlights the complex interplay between the right to housing and the right to property. The Court's judgements underline the importance of proportionality and the need to balance these competing rights. However, the ECtHR has been criticised for not consistently applying the proportionality test, particularly in the private rental sector, which can exacerbate social inequality and disadvantage marginalised groups. Meanwhile, the ECSR, through the European Social Charter, explicitly elaborates on the right to housing, focusing on economic and cultural dimensions and emphasising the obligations of states to promote access to adequate housing, prevent homelessness, and ensure affordability. The focus on Europe in this analysis is due to its comprehensive and well-developed legal frameworks, which provide valuable insights into the practical implementation of housing rights.

Through a comparative analysis of these international and regional mechanisms, this study provides a comprehensive understanding of the different approaches to the protection of housing rights. This analysis helps illuminate the strengths and weaknesses of various legal frameworks and identifies best practices that can be adopted to enhance the protection of housing rights globally. Furthermore, understanding the effectiveness of these mechanisms yields valuable insights on how states can better fulfil their obligations and ensure that housing rights are respected, protected, and fulfilled. This study examines the role of treaty bodies, special procedures and human rights courts in addressing housing-related violations, including analyses of relevant cases and practices, and sheds light on the various approaches used to ensure housing security and habitability for all.

## I. INTERNATIONAL HUMAN RIGHTS SYSTEM

The right to housing is protected under various international instruments, mainly Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Additionally, it is either explicitly mentioned or implied in treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention Relating to the Status of Refugees.<sup>1</sup>

Article 11 of the ICESCR safeguards the right to an adequate standard of living, which falls under economic, social, and cultural rights. This right serves as an umbrella, encompassing not only adequate food and clothing but also suitable

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<sup>1</sup> Asbjørn Eide and Wenche Barth Eide, '10. Adequate Standard of Living' in Daniel Moekli, Sangeeta Shah, Sandesh Sivakumaran and David Harris (ed), *International Human Rights Law* (Oxford University Press 2022) 195  
<<https://www.oxfordlawtrove.com/view/10.1093/he/9780198860112.001.0001/he-9780198860112-chapter-10>>.

housing, all aimed at continuously improving living conditions.<sup>2</sup> Before delving into the scope of the right to housing, addressing some fundamental principles regarding economic, social, and cultural rights and their monitoring mechanisms would be helpful.

## A. FUNDAMENTAL PRINCIPLES

States have general and specific duties under the ICESCR. General obligations established by the ICESCR include the obligation of the state to progressively realise Covenant rights 'to the maximum of its available resources' and to do so 'by all appropriate means, particularly through the adoption of legislative measures'<sup>3</sup> on non-discrimination<sup>4</sup>, including equal rights of women and men to the enjoyment of Covenant rights. Other general obligations that have been developed by the CESCR in General Comments and concluding observations include the concept of minimum core obligations and non-retrogression. Specific State obligations encompass the obligations to respect, protect, and fulfill.<sup>5</sup>

Under the right to an adequate standard of living, states have three main responsibilities.<sup>6</sup> Firstly, they must respect individuals' freedom to choose how they meet their standard of living, whether alone or with others. Secondly, they must protect individuals' freedom of choice and prevent actions like fraud and unethical trade practices that hinder access to basic needs like food and housing. Lastly, when necessary, states must ensure everyone has access to resources for their livelihood. This could involve providing information and education, or directly offering aid or social security, especially during times of crisis or for marginalised groups.<sup>7</sup>

## B. MONITORING MECHANISMS

Under the Optional Protocol to the Covenant on Economic, Social and Cultural Rights (CESCR-OP), the Committee on Economic, Social and Cultural Rights is authorised to address individual complaints of ICESCR breaches once domestic remedies are exhausted. Its communications and recommendations to ICESCR member states form a growing body of legal interpretation. The CESCR has produced extensive material on the right to adequate housing. Additionally,

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<sup>2</sup> Jessie Hohmann and Beth Goldblatt (eds), *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges* (Hart Publishing 2021) 3 <<http://www.bloomsburycollections.com/book/the-right-to-the-continuous-improvement-of-living-conditions-responding-to-complex-global-challenges>> accessed 11 April 2024.

<sup>3</sup> ICESCR Article 2(1).

<sup>4</sup> ICESCR Article 2(2).

<sup>5</sup> Daniela Ikawa, 'The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol' in Jackie Dugard, Bruce Porter, Daniela Ikawa, and Lilian Chenwi (ed), *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Edward Elgar Publishing 2020) 18 <<https://www.elgaronline.com/edcollchap/edcoll/9781788974165/9781788974165.00009.xml>> accessed 15 April 2024.

<sup>6</sup> Eide and Eide (n 1) 190.

<sup>7</sup> *ibid.*

the UN Human Rights Council has established “special procedures” to monitor human rights implementation, including the appointment of experts known as Special Rapporteurs. These procedures generate substantial material relevant to interpreting and enforcing UN human rights instruments, though they are not directly tied to treaty obligations.<sup>8</sup>

The Committee on Economic, Social and Cultural Rights issues General Comments focusing on the right to an adequate standard of living, and providing concluding observations and recommendations based on state reports. The thematic mechanisms developed by the UN Human Rights Council and its predecessor, the Commission on Human Rights, further promote the implementation of the right to an adequate standard of living. Special Rapporteurs or Independent Experts, focusing on areas like food, housing, health, water, and poverty elimination, play a crucial role in assessing global progress and shortcomings in realizing this right through their reports.<sup>9</sup>

### C. SCOPE OF THE RIGHT TO HOUSING AND STATES’ DUTIES

The right to housing is enshrined under the right to an adequate standard of living in both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), suggesting that it encompasses more than just a basic concept of shelter.<sup>10</sup> The Special Rapporteur on the right to housing draws attention to its correlation with the right to life. According to her, addressing the right to adequate housing and the right to life separately has perpetuated a prevalent sense that violations of housing rights are not as significant as other violations. Hence, housing rights should be considered unacceptable violations of the right to life.<sup>11</sup>

The Committee offers a comprehensive view of the right to adequate housing in its General Comment 4, considering factors such as privacy, security, space, lighting, ventilation, basic infrastructure, and location. Additionally, it provides a well-known seven-dimension scheme to evaluate how effectively the right has been fulfilled in specific cases.<sup>12</sup> The right to housing encompasses several key elements: legal security of tenure to prevent forced eviction; availability of services such as water and sanitation; affordability ensuring that housing costs do not compromise basic needs; habitability standards for health and safety; accessibility for disadvantaged groups; strategic location near essential services; and cultural sensitivity in housing policies. These elements

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<sup>8</sup> Stuart Wilson, ‘The Right to Adequate Housing’ in Jackie Dugard, Bruce Porter, Daniela Ikawa, and Lilian Chenwi (ed), *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Edward Elgar Publishing 2020) 182  
<<https://www.elgaronline.com/edcollchap/edcoll/9781788974165/9781788974165.00018.xml>> accessed 14 April 2024.

<sup>9</sup> Eide and Eide (n 1) 206.

<sup>10</sup> Wilson (n 8) 184.

<sup>11</sup> Special Rapporteur on adequate housing, ‘Adequate housing as a component of the right to an adequate standard of living’ (UN General Assembly, UN Doc A/71/30, August 2016) para 5.

<sup>12</sup> ‘CESCR General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant (UN Committee on Economic, Social and Cultural Rights (CESCR) 1991 para 7.

reflect the diverse needs and multifaceted nature of housing rights, which are essential to ensure the well-being and dignity of all individuals.

While housing is often perceived as a private commodity, the lens of human rights reframes this notion, asserting that housing is, in fact, a public good.<sup>13</sup> Furthermore, as an economic and social right, the right to housing is subject to progressive realisation principle.<sup>14</sup> Article 2 of the ICESCR envisages a progressive realisation that imposes obligations with immediate effect, also recognising the constraints owing to the limited available resources. General Comment 4 clarifies the nature and scope of state obligations to facilitate the realisation of the right to housing in all its aspects. It places the responsibility on States to establish a comprehensive framework for the effective realisation of this right, covering policy, legislation and administration.<sup>15</sup>

One of the most important problems related to the right to housing is forced evictions<sup>16</sup>, which often arise due to the tension between private property rights and the right to housing.<sup>17</sup> Evictions, particularly those related to mortgage defaults, can cause significant problems.<sup>18</sup> To address this issue, the Committee subsequently adopted General Comment 7<sup>19</sup>, which focuses specifically on eviction provisions. General Comment 7 begins by emphasizing security of tenure as a fundamental component of the right to housing and identifies forced evictions as a form of interference with this right. However, it is important to note that General Comment 7 does not outright prohibit forced evictions.<sup>20</sup> Instead, it outlines the strict circumstances under which evictions should be carried out.<sup>21</sup> In this context, failing to pay or causing damage to a rented house would be a justification for an eviction<sup>22</sup>, yet the grounds for eviction must also be consistent with the Covenant. The fact that eviction may seem justified at first glance does not guarantee that it aligns with the principles of the Covenant. States must ensure that eviction is the last resort, only pursued after exhaustively considering all feasible alternatives. This means that even if there is a compelling public or private interest, it may not justify eviction if alternative solutions, explored in consultation with the affected individual, are available.

Evictions must be the last resort, considered only after exploring all feasible alternatives.<sup>23</sup> General Comment 7 emphasizes strict procedural protections, including: (a) genuine consultation with affected individuals; (b)

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<sup>13</sup> Eide and Eide (n 1) 196.

<sup>14</sup> Sandra Fredman, 'The Right to Housing' in Sandra Fredman (ed), *Comparative Human Rights Law* (Oxford University Press 2018) 265  
<<https://doi.org/10.1093/oso/9780199689408.003.0009>> accessed 8 April 2024.

<sup>15</sup> Wilson (n 8) 185.

<sup>16</sup> Eide and Eide (n 1) 196.

<sup>17</sup> Wilson (n 8) 181.

<sup>18</sup> Fredman (n 14) 268.

<sup>19</sup> 'The Right to Adequate Housing (Art.11.1): Forced Evictions: CESCR General Comment 7.' (UN Committee on Economic, Social and Cultural Rights (CESCR) 1997).

<sup>20</sup> Wilson (n 8) 186.

<sup>21</sup> 'The Right to Adequate Housing (Art.11.1): Forced Evictions: CESCR General Comment 7.' (n 19) para 9.

<sup>22</sup> *ibid* 11.

<sup>23</sup> *ibid* 7.

adequate notice prior to eviction; (c) providing information on the eviction and alternative land use; (d) presence of government officials during eviction, especially for vulnerable groups; (e) proper identification of those carrying out the eviction; (f) avoiding evictions in bad weather or at night without consent; (g) offering legal remedies; and (h) providing legal aid where possible for seeking redress in court.<sup>24</sup> The ICESCR's primary safeguard is that eviction should not result in homelessness or leave the evicted individual vulnerable to further human rights violations. This entails providing suitable alternative accommodation and support, such as resettlement or access to productive land, when the evicted person cannot provide for themselves. States must take all necessary measures, within their available resources, to ensure the availability of adequate alternative housing or support.<sup>25</sup>

Addressing some important communications regarding the right to housing would be demonstrative. The Committee's second communication concerning a housing complaint, *Djazia and Bellili v. Spain*<sup>26</sup>, illustrates the broad impact of investigating the fairness of possible termination of residence rights. In this case, a couple and their two children faced eviction for non-payment of rent. While the Committee found the eviction justified on procedural and substantive grounds, it criticised the Spanish government for failing to provide suitable alternative housing. Although the government acknowledged its obligations, it cited an oversubscribed social housing programme and a backlog as reasons for not providing alternative housing. However, the Committee found this unjustified, especially given that the social housing stock had already been sold. Furthermore, providing shelter to separate the family is inconsistent with the obligation to protect family unity under Article 10 (1) of the ICESCR. Consequently, the Committee recommended that the Spanish Government comprehensively assess the family's situation and provide public housing or other appropriate accommodation.<sup>27</sup>

In *Lopez Alban v. Spain*,<sup>28</sup> The Committee considered a Spanish housing policy that disqualified persons illegally occupying a house from social housing

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<sup>24</sup> *ibid* 15.

<sup>25</sup> *ibid* 16.

<sup>26</sup> CESCR, Mohamed Ben Djazia and Naouel Bellili v. Spain, CESCR, Communication No. 5/2015, UN Doc. E/C.12/61/D/5/2015 (20 June 2017).

<sup>27</sup> *Ibid* paras. 18, 19, 20: (18) "Given all the information provided and the particular circumstances of this case, the Committee considers that, in the absence of reasonable arguments on the part of the State party regarding all the measures taken to the maximum of its available resources, the authors' eviction, without a guarantee of alternative housing by the authorities of the State party as a whole, including the regional authorities of Madrid, constituted a violation of their right to adequate housing. (19) "The Committee, acting pursuant to article 9 (1) of the Optional Protocol, is of the view that the State party violated the authors' right under article 11 (1), read separately and in conjunction with articles 2 (1) and 10 (1) of the Covenant. In the light of the Views contained in the present communication, the Committee makes the following recommendations to the State party." (20) "The State party has an obligation to provide the authors with an effective remedy, in particular: (a) in the event that the authors do not have adequate accommodation, to assess their current situation and, following genuine consultation with them, to grant them public housing or any other measure enabling them to enjoy adequate accommodation, taking into account the criteria established in these Views; (b) to award the authors financial compensation for the violations suffered; and (c) to reimburse the authors for the legal costs reasonably incurred in the processing of this communication." Also, see para. 21 for the General Recommendation.

<sup>28</sup> CESCR, Lopez Alban v Spain (11 October 2019) E/C.12/66/D/37/2018.

assessment. The complainant, a mother of six children living in a vacant bank-owned flat, was refused social housing on the basis of her illegal occupation. She was subsequently evicted with her children and faced inadequate emergency shelter. While recognising the legitimacy of protecting the bank's property rights, the Committee found that Spain had violated its ICESCR obligations. The lack of proportionality assessment of evictions in Spanish law and the disproportionate response to the complainant's housing situation were criticised. The exclusion from social housing was considered particularly harsh given the urgency of his need. The Committee recommended the establishment of a legal framework for proportionality assessments in evictions, genuine counselling procedures for those facing eviction, and a comprehensive social housing plan without serious exceptions.<sup>29</sup>

The financialisation of housing, exemplified by firms such as Blackstone, poses inequality as stated in the Special Rapporteurs' Report.<sup>30</sup> Blackstone, a large real estate private equity firm, has adopted the practice of buying undervalued assets, often housing low-income tenants, and raising rental prices.<sup>31</sup> This reduces housing affordability and leads to increased evictions and homelessness. In justifying its actions by citing market forces and legal compliance, Blackstone is contributing to the financialisation of housing, which prioritises profit over its social function.<sup>32</sup> The failure of states to regulate the property market exacerbates these problems and constitutes a breach of their duty to protect housing rights. Laws enabling such actions should be considered deliberately retrogressive measures as they contribute to the erosion of housing rights.<sup>33</sup>

As described so far, individuals facing issues concerning security of tenure and the habitability of housing conditions would rely on the right to housing guaranteed in Article 11 of the ICESCR. General Comment 4 serves as a significant instrument that elaborates on the fundamental principles, particularly the seven conditions of habitability, regarding housing quality. On the other

<sup>29</sup> Ibid para. 17; para 14, 15, 16: (14) *"On the basis of all the information provided and in the particular circumstances of this case, the Committee considers that the eviction of the author and her children without an assessment of proportionality by the authorities constituted a violation of their right to adequate housing. Moreover, the Committee considers that the refusal of the author's application for public housing without taking into account her situation of necessity and solely on the basis that she was occupying a property without legal title in itself amounts to a violation of her right to adequate housing."* (15) *"The Committee, acting under article 9 (1) of the Optional Protocol, is of the view that the State party violated the author's and her children's right under article 11 (1) of the Covenant. The Committee also considers that the State party has violated article 5 of the Optional Protocol. In the light of the Views in the present communication, the Committee makes the following recommendations to the State party."* (16) *The Committee, acting under article 9 (1) of the Optional Protocol, is of the view that the State party violated the author's and her children's right under article 11 (1) of the Covenant. The Committee also considers that the State party has violated article 5 of the Optional Protocol. In the light of the Views in the present communication, the Committee makes the following recommendations to the State party.*

<sup>30</sup> 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 (26 December 2019) A/HRC/43/43 paras 64 to 69.

<sup>31</sup> David Birchall, 'Human Rights on the Altar of the Market: The Blackstone Letters and the Financialisation of Housing' (2019) 10 Transnational Legal Theory 446, 447.

<sup>32</sup> Mark Jordan, 'Contesting Housing Inequality: Housing Rights and Social Movements' (2024) 87 The Modern Law Review 52, 67.

<sup>33</sup> Birchall (n 31) 470.



hand, security of tenure is another crucial aspect of the right to housing. For this matter, General Comment 7 provides guidance, detailing the conditions for eviction as a last resort. In terms of individual petitions, individuals can apply to the CESCR with allegations of violations of the right to housing under the Optional Protocol against states that have ratified it.

## II. REGIONAL HUMAN RIGHTS SYSTEMS

The right to housing is explicitly or implicitly protected under regional human rights systems. While the European Convention on Human Rights (ECHR) does not explicitly mention the right to housing, the European Court of Human Rights' (ECtHR) interpretation includes the right to housing in terms of forced evictions. Furthermore, the right to housing is explicitly protected in the European system under the European Social Charter (ESC) in Article 31, focusing on the economic, social, and cultural aspects of housing.<sup>34</sup> Both the African and Inter-American system, while there is no explicit provision on the right to housing in African Charter on Human and Peoples' Rights (African Charter) and American Convention on Human Rights (American Convention), this right is protected through interpretation under different rights.<sup>35</sup>

Regional human rights mechanisms play a crucial role in protecting the right to housing. While the ECtHR addresses cases concerning forced evictions, the European Committee of Social Rights (ECSR) oversees compliance with the ESC, particularly Article 31. It deals with state reports and collective complaints related to housing violations.<sup>36</sup> The African Commission on Human and Peoples' Rights (ACHPR) monitors states' performance on the African Charter through individual petitions, investigations, and reports, addressing housing rights violations.<sup>37</sup> Likewise, the Inter-American Commission on Human Rights (IACHR) ensures compliance with the American Convention, protecting housing rights through individual petitions, investigations, and reports.<sup>38</sup> Both the Inter-American and African systems employ an 'opt-in' approach for individuals to access regional human rights courts. Commissions in both systems refer cases to the court if states consent. In the African system, member states can alternatively accept the direct jurisdiction of the African Court on Human and Peoples' Rights

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<sup>34</sup> Eide and Eide (n 1) 195.

<sup>35</sup> Wilson (n 8) 183.

<sup>36</sup> Colm O'Cinneide, 'The European System' in Jackie Dugard, Bruce Porter, Daniela Ikawa, and Lilian Chenwi (ed), *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Edward Elgar Publishing 2020) 48  
<<https://china.elgaronline.com/edcollchap/edcoll/9781788974165/9781788974165.00011.xml>> accessed 16 April 2024.

<sup>37</sup> Lilian Chenwi, 'The African System' in Jackie Dugard, Bruce Porter, Daniela Ikawa, and Lilian Chenwi (ed), *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Edward Elgar Publishing 2020) 39  
<<https://china.elgaronline.com/edcollchap/edcoll/9781788974165/9781788974165.00010.xml>> accessed 16 April 2024.

<sup>38</sup> Viviana Krsticevic, 'The Inter-American System' in Jackie Dugard, Bruce Porter, Daniela Ikawa, and Lilian Chenwi (ed), *Research Handbook on Economic, Social and Cultural Rights as Human Rights* (Edward Elgar Publishing 2020) 73  
<<https://china.elgaronline.com/edcollchap/edcoll/9781788974165/9781788974165.00012.xml>> accessed 16 April 2024.

without referral by the African Commission.<sup>39</sup> In the Inter-American system, the American Court addresses individual petitions only when referred by the commission. Protection mechanisms in both systems primarily focus on the efforts of commissions rather than courts.

## A. EUROPEAN SYSTEM

Economic and social rights are protected under the European Social Charter, and the revised charter expands their scope, including the right to housing in Europe. However, economic and social rights often linger in the shadow of the ECHR and EU law.<sup>40</sup> Nevertheless, concerning the right to housing and its scope, Article 31 of the ESC is of paramount importance as it elaborates on the right to housing and places responsibilities on states. According to Article 31:

The right to housing with a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: (1) to promote access to housing of an adequate standard; (2) to prevent and reduce homelessness with a view to its gradual elimination; (3) to make the price of housing accessible to those without adequate resources.

On the other hand, within the scope of forced evictions, this aspect of the right to housing is addressed under Article 8 of the ECHR.

The European Social Charter provides several mechanisms to protect economic and social rights, including the right to housing. Two crucial mechanisms for protecting and monitoring the right to housing, along with others, are the collective complaint procedures and the reporting system. Firstly, through the Collective Complaints Procedure (Additional Collective Complaints Protocol of 1995), organizations such as trade unions and NGOs can raise concerns about violations of the Charter to the European Committee of Social Rights (ECSR), facilitating monitoring of state compliance.<sup>41</sup> Secondly, states are required to report regularly to the ECSR on their implementation efforts, with the Committee providing assessments and recommendations for evaluating progress.<sup>42</sup> Alongside these prominent mechanisms, promoting integration into national legal systems strengthens the implementation of individuals' Charter rights at the national level. Regarding forced evictions, the ECtHR addresses allegations of violations under Article 8 of the ECHR.

*In Defence for Children International (DCI) v. the Netherlands*<sup>43</sup>, DCI alleged that the Netherlands' laws and practices denying illegally present children access

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<sup>39</sup> Christof Heyns and Magnus Killander, '23. Africa' in Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran and David Harris (ed), *International Human Rights Law* (4th edn, Oxford University Press 2022) 500.

<sup>40</sup> O'Cinneide (n 36) 51.

<sup>41</sup> Steven Greer and Lewis Graham, '22. Europe' in Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran and David Harris (ed), *International Human Rights Law* (4th edn, Oxford University Press 2022) 466.

<sup>42</sup> O'Cinneide (n 36) 63.

<sup>43</sup> European Committee of Social Rights, *Defence for Children International (DCI) v. the Netherlands*, Complaint No. 47/2008, Decision on the merits, 20 October (2009). This complaint concerns the Netherlands' failure to provide adequate housing for

to adequate housing violated Article 31 of the European Social Charter. The DCI argued that housing is necessary to protect human dignity and that denying it to foreign nationals, even if they are in the country illegally, is contrary to the Charter. However, the Committee held that Article 31 (1) and Article E were not applicable in this case. It concluded, however, that Article 31 (2) and Article 17 (1) had been violated. The Committee found that states must provide adequate shelter to children unlawfully present within their jurisdiction, as failure to do so would amount to a denial of their human dignity and a neglect of their particularly vulnerable situation.<sup>44</sup>

*FEANTSA* lodged a Collective Complaint against France,<sup>45</sup> alleging violations of its right to housing under Article 31 of the Revised Social Charter. *FEANTSA* alleged that France had failed to adequately promote access to adequate housing, prevent homelessness, and ensure affordability for those in need, despite improvements in housing quality over three decades.<sup>46</sup> In June 2008, the ECSR found six violations of Article 31 by France, including insufficient progress in eliminating substandard housing, insufficient measures to prevent evictions and provide rehousing solutions, insufficient efforts to reduce homelessness, lack of accessible social housing for low-income groups, flaws in the social housing allocation system and deficiencies in the legislation on stopping places for Travellers.<sup>47</sup>

In terms of equality and the right to housing, The European Committee of Social Rights has condemned Greece for persistent and widespread discrimination against Roma in housing rights.<sup>48</sup> In an unprecedented re-examination of a complaint jointly submitted by *INTERIGHTS* and the Greek Helsinki Monitor, the Committee unanimously upheld all the main allegations. The complaint highlighted Greece's failure to provide adequate housing and infrastructure for Roma, as well as more than 20 forced evictions and systematic discrimination since 2004. Despite the government's claims of adequate

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undocumented migrant children. The European Committee of Social Rights (ECSR) ruled that this constituted a violation of children's rights, emphasizing that states must ensure access to housing and basic services for all children, regardless of their immigration status.

<sup>44</sup> Ibid para. 71.

<sup>45</sup> European Committee of Social Rights, *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*, Complaint No. 39/2006, 5 December (2007). This complaint concerns France's failure to ensure effective access to adequate housing for homeless individuals and vulnerable groups. The European Federation of National Organisations Working with the Homeless (FEANTSA) filed a complaint, arguing that France did not meet its obligations under the European Social Charter. The European Committee of Social Rights (ECSR) ruled that France's lack of sufficient housing policies and support measures constituted a violation of the right to housing, highlighting the state's duty to protect vulnerable populations.

<sup>46</sup> Ibid para. 109-111.

<sup>47</sup> Ibid para 166.

<sup>48</sup> European Committee of Social Rights, *INTERIGHTS v. Greece*, Complaint No. 49/2008, Decision on the merits, 11 December 2009. This complaint concerns Greece's failure to provide adequate housing and protection for Roma individuals. The European Committee of Social Rights (ECSR) ruled that Greece's actions, including forced evictions and systematic discrimination, violated the right to housing under the European Social Charter.

guarantees, the Committee emphasized that uniform treatment alone is insufficient for true equality, especially for Roma who face unique challenges.

On the other hand, forced evictions are addressed under Article 8(1) of the ECHR, which stipulates that “*Everyone has the right to respect for their private and family life, their home, and their correspondence.*” The jurisprudence of the ECtHR can be categorised into two clusters: disputes concerning the public sector rental and those concerning the private rental sector. This paragraph focuses on the former, while the subsequent paragraph will concentrate on the latter. In the *McCann v. United Kingdom*,<sup>49</sup> the case concerned a man who lived in a council house in the UK with his family. After his marriage broke down, the tenancy agreement remained in his ex-wife’s name, and the local authority initiated possession proceedings against him, resulting in his eviction. McCann argued that this eviction, without a proper proportionality assessment or consideration of his personal circumstances including his continued residence, lack of alternative housing, and risk of homelessness by an independent tribunal, violated his rights under Article 8 of the ECHR. The Court emphasised that anyone faced with such a significant interference should, in principle, have the proportionality of the eviction measure determined by an independent court. Therefore, the ECtHR found that the eviction constituted a serious interference with his right to respect for his home, and that the absence of a possibility to challenge the proportionality of the measure in court was incompatible with Article 8. In public sector rental cases, the ECtHR has applied a rigorous standard, in contrast to the usual deferential approach to social and economic policies.<sup>50</sup> This is because the right to housing is recognised as an extremely important right affecting an individual’s identity, autonomy, physical and moral well-being, relationships, and community ties.<sup>51</sup> This principle was emphasised in *Cosic v. Croatia*, where the Court held that the loss of one’s home amounted to a gross violation of the right to respect for one’s home.<sup>52</sup>

With regard to the private rental sector, the case of *F.J.M. v. the United Kingdom*,<sup>53</sup> is particularly significant. In this case, a woman who had been living in private rental housing in the UK faced possession proceedings after the death of her mother, who had been the legal tenant. Despite her long-term residence in the property, mental health issues, lack of alternative accommodation, and overall vulnerability, the domestic courts did not carry out an independent proportionality assessment before ordering her eviction. In the admissibility decision in this case, ECtHR limited the application of the principle set out in *McCann v. the United Kingdom* (2008) to the public sector, holding that Article 8 of the ECHR does not require a proportionality test for evictions in the private

<sup>49</sup> *McCann v United Kingdom* (App. No.19009/04), judgment of 13 May 2008, paras. 12-17.

<sup>50</sup> See. *McCann v United Kingdom*, paras. 50-55. See for this view in detail: Fredman (n 14) 271.

<sup>51</sup> *Connors v UK* (2005) 40 EHRR 9 (European Court of Human Rights) para 82.

<sup>52</sup> *Cosic v Croatia* [2011] 52 EHRR 39 (European Court of Human Rights) para 22. This case concerns Croatia’s eviction of a tenant from a state-owned apartment without considering her personal circumstances. The ECtHR ruled that this violated Art. 8 ECHR, emphasizing that evictions must be proportionate and that national authorities must assess the impact on the individual’s private and family life before enforcing such measures. The Court stressed the need for adequate procedural safeguards to protect tenants from arbitrary displacement.

<sup>53</sup> *FJM v United Kingdom* (App. No.76202/16), decision of 6 November 2018, paras 6-9.

rental sector.<sup>54</sup> The *McCann* principle, established in relation to public sector evictions, suggests that the loss of one's home requires the proportionality of an eviction measure to be determined by an independent court. In the *FJM* judgement, the Court held that Section 21 evictions in England and Wales, which allow private landlords to evict tenants without fault or cause, did not breach the right to housing. The Court expressed concern about the potential negative impact on the private rental sector of tenants being able to request a proportionality assessment prior to eviction, stating that it would be unpredictable and damaging.<sup>55</sup> However, critics argue that such an assessment is required for all evictions, regardless of ownership, and call for a reconsideration of the ECtHR's interpretation of Article 8 requirements. The *FJM* judgement has wider implications beyond the UK, potentially affecting tenancy security protection across Europe and sparking debate about the impact of European law on national tenancy laws.<sup>56</sup>

In summary, individuals concerned about the right to housing in the European system find protection under both the ESC and the ECHR, particularly in cases of forced evictions. The ECSR ensures compliance with the ESC through collective complaints and state reports, while the ECtHR addresses cases arising from forced evictions. However, while the ECSR's approach to the right to housing aligns with international standards, the ECtHR's approach to forced evictions does not fully meet the criteria outlined in General Comment 7. This interpretation not only exacerbates social inequality, but also further disadvantages marginalised groups. Therefore, it is imperative for the ECtHR to adhere to the criteria outlined in General Comment 7.

## B. AFRICAN SYSTEM

The right to housing, along with the right to food, is protected under the the African Charter on Human and Peoples' Rights (ACHPR), as stated by the African Commission in its decision in *SERAC v Nigeria*<sup>57</sup>, despite the absence of explicit articles in the African Charter.<sup>58</sup> In *SERAC v Nigeria*, the complainants alleged that the Nigerian government violated the Ogoni community's right to adequate housing due to environmental degradation caused by oil exploitation

<sup>54</sup> Sarah Fick and Michel Vols, 'Horizontalities and Housing Rights: Protection against Private Evictions from a European and South African Perspective' (2022) 9 European Journal of Comparative Law and Governance 118, 123.

<sup>55</sup> *FJM v United Kingdom*, para 15.

<sup>56</sup> Casla, Koldo, 'Unpredictable and Damaging? A Human Rights Case for the Proportionality Assessment of Evictions in the Private Rental Sector' [2022] European Human Rights Law Review 253, 2.

<sup>57</sup> Social and Economic Rights Action Centre (SERAC) and Another v Nigeria (2001) AHRLR 60 (African Commission on Human and Peoples' Rights). This Communication concerns Nigeria's failure to protect the rights of its citizens to a healthy environment and adequate housing. The Social and Economic Rights Action Centre (SERAC) and others filed a complaint against Nigeria for its involvement in the destruction of oil-producing communities in the Niger Delta, leading to environmental degradation and forced displacement of residents. The African Commission on Human and Peoples' Rights ruled that Nigeria violated the African Charter on Human and Peoples' Rights, particularly the right to health, housing, and a healthy environment, due to the government's actions and failure to prevent the harm caused by oil companies.

<sup>58</sup> Eide and Eide (n 1) 195.

and attacks by security forces. Although the right to housing is not explicitly mentioned in the African Charter, the African Commission has interpreted it as encompassing<sup>59</sup> the right to shelter or housing derived from the rights to property<sup>60</sup>, protection of the family,<sup>61</sup> and health<sup>62</sup>. The right to housing goes beyond mere shelter and encompasses the right to peace and privacy.<sup>63</sup>

In general, states' responsibilities concerning the right to adequate housing are understood in terms of four levels of obligation: to respect, protect, promote and fulfil. This four-tier obligation, consisting of both positive and negative duties, was recognised by the African Commission in the SERAC case.<sup>64</sup> The Commission emphasised that all rights entail obligations, including the duty to protect citizens against violations of their rights by non-state actors. Furthermore, although the African Charter does not explicitly state that economic and social rights are subject to the principles of progressive realisation, immediate implementation, and minimum core obligations, the African Commission acknowledges that these principles are to be implemented.<sup>65</sup>

The African Commission plays a central role in mechanisms to protect economic and social rights, in particular the right to housing in Africa. The ACHPR monitors state compliance with the African Charter, including their obligations under Article 14 on the right to housing. The Commission receives individual complaints and state reports, conducts investigations, and issues recommendations to address violations.<sup>66</sup> In addition, the ACHPR has adopted several resolutions and guidelines strengthening the right to housing. For instance, Resolution on the right to adequate housing and protection from forced evictions<sup>67</sup> stipulates the criteria very similar to those outlined in General Comment 7, that states should follow. Likewise, The Principles and Guidelines of the African Commission outline various responsibilities concerning national plans, policies, and systems to fulfill the right to adequate housing.<sup>68</sup>

As stated, the right to housing in the African regional human rights system finds protection in the African Charter. Although the right to housing is not explicitly mentioned in the Charter, there is limited jurisprudence; the African Commission has broadly interpreted the right to housing in accordance with international standards.<sup>69</sup> The African Commission's approach particularly

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<sup>59</sup> Social and Economic Rights Action Centre (SERAC) and Another v. Nigeria (n 36) para 36.

<sup>60</sup> African Charter of Rights and Freedoms, Article 14.

<sup>61</sup> African Charter of Rights and Freedoms, Article 16.

<sup>62</sup> African Charter of Rights and Freedoms, Article 18

<sup>63</sup> Social and Economic Rights Action Centre (SERAC) and Another v. Nigeria (n 56) para 61.

<sup>64</sup> SERAC para 44.

<sup>65</sup> Chenwi (n 37) 33.

<sup>66</sup> Heyns and Killander (n 39) 497.

<sup>67</sup> Resolution on the right to adequate housing and protection from forced evictions ACHPR/Res.231(LII)2012

<sup>68</sup> African Commission Principles and Guidelines paras 79 (iv-xiii).

<sup>69</sup> Lilian Chenwi, 'The Right to Adequate Housing in the African Regional Human Rights System: Convergence or Divergence between the African Commission and South African Approaches' (2013) 17 Law, Democracy & Development 342, 359.

emphasises the importance of housing for human dignity and well-being. Furthermore, with regard to forced evictions, the Commission has recognised the severe impact on affected individuals and emphasised that evictions should be a measure of last resort, consistent with the principles set out in General Comment 7.

### C. INTER-AMERICAN SYSTEM

The right to adequate housing is explicitly protected neither in the American Convention on Human Rights (American Convention) nor in the Protocol of San Salvador, which expands the scope of economic, social, and cultural rights. This right has been protected mainly by Articles 11 (prohibition of interference in the home, 21 (right to property), and 22 (freedom of movement and residence) of the American Convention. While the American Court has addressed cases involving indigenous communities in temporary settlements, it has more extensively elaborated on this aspect in other relevant cases.<sup>70</sup>

The case of *Yakye Axa Indigenous Community v. Paraguay*<sup>71</sup> stands as a seminal legal dispute decided by the Inter-American Court, centred on the right of the Yakye Axa Indigenous Community to adequate housing in Paraguay. For decades, the community has faced severe poverty and deprivation, enduring precarious conditions in temporary settlements lacking adequate housing, sanitation and basic services. The Court ruled in favour of the Yakye Axa Indigenous Community, finding that Paraguay had violated their rights under the American Convention.<sup>72</sup> The judgement required urgent action, highlighting Paraguay's failure to protect the community's housing rights under international human rights law. Paraguay was directed to implement effective measures to ensure the community's access to adequate housing, basic services and infrastructure.

The *María Mejía case*<sup>73</sup> also played an important role in establishing housing as a human right in the Inter-American System.<sup>74</sup> The case was decided

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<sup>70</sup> Eduardo Ferrer Mac-Gregor, 'Social Rights in the Jurisprudence of the Inter-American Court of Human Rights', *Research Handbook on International Law and Social Rights* (Edward Elgar Publishing 2020) 179  
<<https://china.elgaronline.com/edcollchap/edcoll/9781788972123/9781788972123.00020.xml>> accessed 17 April 2024.

<sup>71</sup> *Yakye Axa Indigenous Community. v. Paraguay*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 125 (June 17, 2005). This case concerns the Yakye Axa Indigenous Community's claim against Paraguay for violations of their right to land, housing, and cultural integrity. The Inter-American Court of Human Rights found that Paraguay had failed to guarantee the community's right to property by not restoring their ancestral lands, which had been taken for agricultural use. The Court ruled that Paraguay violated the community's rights under the American Convention on Human Rights, specifically the right to property, the right to live in conditions of dignity, and the right to a healthy environment. The Court ordered reparations, including the return of the land and compensation for the damages suffered by the community.

<sup>72</sup> *Ibid*, para 164.

<sup>73</sup> *María Mejía v. Guatemala*, Report N. 32/96 - Case 10.553, par. 1 (Inter-American Commission on Human Rights, October 16, 1996). The *María Mejía v. Guatemala* case concerns the forced eviction and destruction of María Mejía's home by state agents. Mejía and her family lived in Guatemala when security forces raided, burned down their

directly under Article 22 of the American Convention, which guarantees freedom of movement and residence. This judgment implied that freedom of residence inherently includes the right to housing, since individuals have the autonomy to choose where to live and the State must not impede this choice but rather respect and promote it. The Commission further expanded its interpretation, stating that this right would be violated if the State or its agents forcibly remove individuals from their homes through violence or threats of violence. Furthermore, any measure taken by the State to restrict an individual's access to his or her home was also recognised as a violation of this right.<sup>75</sup>

Regarding protection mechanisms for economic and social rights, particularly right to housing, The IACHR is responsible for the promotion and protection of human rights throughout the Americas, including monitoring the implementation of housing rights. The IACHR assesses the situation of economic and social rights, particularly housing rights through mechanisms such as receiving petitions<sup>76</sup> and organising thematic hearings, and makes recommendations to states, often conducting on-site visits and publishing reports.<sup>77</sup> For instance, the Commission has reported cases of forced evictions impacting campesinos in Paraguay, obstacles to accessing maternal health services in Mexico, and challenges related to obtaining adequate food and housing.<sup>78</sup> Furthermore, in its 2017 report on Venezuela, the Commission underlined that human rights violations and the collapse of the rule of law have contributed to a general weakening of institutions in the country. This has led to a significant increase in poverty and difficulties in accessing basic needs such as food, health and housing.<sup>79</sup>

In brief, in the Inter-American System, the right to housing is not explicitly protected. Therefore, individuals concerned about tenure security or the habitability of their homes must rely on various articles in the American Convention, such as the right to property, prohibition of interference in the home, or freedom of movement and residence. It is important to note that,

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home, and forcibly removed them, leaving them homeless. The Guatemalan government failed to investigate the incident or provide any redress. Mejía brought the case before the Inter-American Commission on Human Rights (IACHR), arguing that her right to freedom of movement and residence (Art. 22 ACHR) had been violated. The IACHR ruled in her favor, stating that the right to housing is inherent in the right to residence and that forced evictions by the state violate human rights.

<sup>74</sup> Erin Elizabeth Davis, 'Housing as a Human Right within an Era of International Exceptionalism' (2021) 7 *Constitutional Review* 241, 254.

<sup>75</sup> *María Mejía v. Guatemala*, para 65.

<sup>76</sup> Krsticevic (n 38) 73.

<sup>77</sup> Mikael Rask Madsen, 'The Narrowing of the European Court of Human Rights? Legal Diplomacy, Situational Self-Restraint, and the New Vision for the Court' (2021) 2 *European Convention on Human Rights Law Review* 180, 145.

<sup>78</sup> *Cavallaro* (n 40) 798.

<sup>79</sup> Flávia Piovesan, Mariela Morales Antoniazzi and Julia Cortez da Cunha Cruz, 'The Protection of Social Rights by the Inter-American Commission on Human Rights', *Research Handbook on International Law and Social Rights* (Edward Elgar Publishing 2020) 169  
<<https://china.elgaronline.com/edcollchap/edcoll/9781788972123/9781788972123.00019.xml>> accessed 17 April 2024.



unlike in the European or possibly African systems, there is not as much abundant jurisprudence specifically addressing the habitability conditions of houses within the Inter-American System. Additionally, it is worth noting that the right to housing often intersects with the rights of indigenous peoples in the American system.

## CONCLUSION

The right to housing is protected under the international human rights system, particularly Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Committee's General Comments No 4 and 7. Furthermore, at the regional level, the right is enshrined in three leading human rights systems: European, African, and Inter-American systems. Within the European system, the explicit article in the European Social Charter (ESC) covers the economic and cultural aspects of housing, while the European Convention on Human Rights (ECHR) plays an important role in addressing forced evictions. However, within the European system, forced evictions "related to the right to housing deviate from the international human rights system and are a cause for concern as the European Court of Human Rights (ECtHR) has not consistently applied a proportionality test, particularly in the private rented housing sector. In the African system, while there is no explicit provision, this right is protected through a broad interpretation of the different rights, which is in line with the African Commission on Human and Peoples' Rights (African Commission) international standards on both housing security and, to some extent, housing habitability. Similarly, in the Inter-American system, while there is no explicit provision for the right to housing, this right is protected through interpretation under different rights. In particular, in this system, the right to housing often arises in connection with the rights of indigenous peoples.

International and regional human rights systems provide different levels of protection for housing security and habitability. In the international system, collective complaints can be lodged under the Optional Protocol (OP). In the European system, state ratification is required to collectively apply to the European Committee of Social Rights (ECSR). However, individuals can apply directly to the ECtHR. Both the African and Inter-American systems grant individuals (against states which ratified the African Charter on Human and Peoples' Rights (African Charter) and the American Convention on Human Rights (American Charter) respectively) access to human rights commissions, while human rights courts are accessible through an "opt-in" process, with commissions referring cases if states consent. In the African system, member states can alternatively accept the direct jurisdiction of the African Court on Human and Peoples' Rights (African Court) without referral by the African Commission. In the Inter-American system, the Inter-American Court of Human Rights (Inter-American Court) addresses individual petitions only when referred by the Inter-American Commission on Human Rights (Inter-American Commission).

Considering the various international and regional systems, it is evident that the UN system provides the most comprehensive and detailed framework for the protection of housing rights. The UN system offers the most comprehensive framework for protecting housing rights, combining the ICESCR with robust mechanisms from UN treaty bodies and special procedures. This multi-pronged approach addresses housing issues through progressive realisation and non-discrimination, ensuring housing security and habitability.

Article 11 of the ICESCR guarantees the right to an adequate standard of living, including housing. States must progressively realise this right, ensuring non-discrimination and gender equality, respecting individuals' freedom to secure their living standards, protecting against actions hindering access to basic needs, and fulfilling by providing essential resources. The Committee on Economic, Social and Cultural Rights (CESCR) and UN Special Rapporteurs monitor compliance. Housing rights encompass security of tenure, availability of services, affordability, habitability, accessibility, strategic location, and cultural adequacy. Forced evictions should be a last resort, with safeguards and alternative accommodation. The financialisation of housing by firms like Blackstone exacerbates inequality, necessitating state regulation. Individuals can seek redress through the CESCR for violations by ratified states.

On the other hand, each regional system has its strengths and weaknesses. The European system, despite its advanced legal frameworks, struggles with the inconsistent application of proportionality tests in forced evictions. The African system, while broad in its interpretative approach, lacks explicit provisions and relies heavily on the interpretation of other rights. The Inter-American system often ties housing rights to indigenous rights, which can limit the broader application of these protections. In conclusion, while each regional system contributes uniquely to the protection of housing rights, the UN system's comprehensive approach and its blend of legal and procedural mechanisms provide the most effective framework for safeguarding the right to housing. Identifying and addressing the specific shortcomings of each system can help enhance the global protection of housing rights, ensuring that these fundamental rights are upheld universally.

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