

Episode 7: The Right to Adequate Housing

This episode focuses on the right to adequate housing which is set out in the International Covenant on Economic, Social and Cultural Rights. After briefly introducing the right to housing, we will consider the different elements of that right and what they require of governments.

The right to adequate housing is one of the most well-recognised and best-established economic and social rights. It is central to human dignity and without it, it is effectively impossible to exercise a range of other human rights, including family life, privacy, and health. The right to adequate housing – or elements of it - is included in a large number of national constitutions, and in regional human rights instruments, including the European Convention on Human Rights and the European Social Charter.

Article 11(1) of the Covenant provides that: 'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate ... housing'. As with all economic and social rights, and as discussed in episodes 3 and 4, governments must move to increase and expand enjoyment of this right as quickly as they can in line with the resources that they have available. As part of that, governments need to prioritise ensuring that everyone has access to basic shelter – ending homelessness is a key part of giving effect to the right to adequate housing.

But what is 'adequate' housing? In its General Comment No 4, on the right to adequate housing, the UN Committee on Economic, Social and Cultural Rights outlined seven elements of 'adequacy':

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The first is 'legal security of tenure'. All persons – whether living in private rental accommodation, social housing, owner-occupation, emergency housing, informal settlements or otherwise – should possess a degree of security of tenure which guarantees protection against forced eviction, harassment and other threats. This should be guaranteed by law so as to enable people to live in their home in security, peace and dignity, and to protect them from victimisation by private or social landlords, neighbours and others.

The second element is 'availability of services, materials, facilities and infrastructure'. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. Everyone – regardless of where they live – must have access to things like safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, waste disposal, and emergency services.

Third, housing must be 'affordable'. This isn't just about taking steps to facilitate home-ownership. Rather, it means that costs associated with housing must not be so high that the satisfaction of other basic needs are threatened or cannot be met. In other words, mortgage payments, rent levels or the cost of utilities like electricity or gas should not be so high that people have to cut back on food and other necessities to make ends meet.

The fourth element is habitability. Inhabitants must have adequate space and be protected from cold, damp, heat, rain, wind, threats to health or structural hazards. And the physical safety of occupants must be guaranteed. So, where social housing is designed in such a way as to constitute a fire hazard or the government does not take sufficient measures to ensure that private rented housing is of a decent standard, the right to adequate housing is not being given effect to.

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Fifth, adequate housing must be 'accessible' to those entitled to it. This means that if everyone is to enjoy the right to adequate housing, people with special housing needs – for instance people with physical, mental or intellectual disabilities – must have housing available to them of a nature or in a form that makes it accessible to them. And the needs of these groups have to be fully taken into account in housing law and policy - this is crucial if everyone is to enjoy the right to adequate housing without discrimination.

Sixth, housing cannot just be anywhere: adequate housing must be in a location which allows access to things like employment opportunities, health-care services, schools, childcare centres and other social facilities. Nor should housing be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of those who live there.

Finally, housing must be culturally adequate. The way housing is constructed, the building materials used and the policies supporting these must enable the expression of cultural identity and diversity of housing. The right to adequate housing is not an example of one-size-fit-all. Housing law and policy must recognise and support different cultural understandings of housing. Housing law and policies that prevent indigenous communities or ethnic minorities from engaging in cultural practices essential to their status as members of particular communities are discriminatory. An example of this would be a failure to facilitate the nomadic tradition of Gypsies and Travellers.

To conclude, the right to adequate housing also prohibits forced evictions. A forced eviction is the permanent or temporary removal against their will of people from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal

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or other protection. There is a wide range of procedural protections that should be applied by government in relation to forced evictions: for instance Governments must genuinely consult with those affected. They must give adequate and reasonable notice of evictions, and they must ensure legal remedies are available to victims of evictions. This includes providing legal aid to people who need it.