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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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

Addendum

**Preliminary note on the mission to the World Bank Group
(26 October to 1 November 2010)**

I. Introduction

1. 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 undertook an official visit to the World Bank Group from 26 October to 1 November 2010. She wishes to express her sincere gratitude to the President of the World Bank Group for the invitation, the constructive dialogue and the support of the World Bank staff throughout the visit.

2. During her visit, the Special Rapporteur met with staff of the World Bank and the International Finance Corporation (IFC) working in different sectors and regions, as well as with members of its Board. She also met with the secretariat of the Inspection Panel and with officials of the Independent Evaluation Group. The visit was preceded by consultations with non-governmental organizations and independent experts.

3. The main purpose of the mission was to explore the relation between the policies and projects supported by the World Bank Group and the right to adequate housing.

4. In this context, the Special Rapporteur analysed the relationship between these policies, projects and the obligation of the borrowers (States or private institutions) in terms of the right to adequate housing as defined in international law. In particular, the Special Rapporteur considered the role played by the World Bank in supporting the States to progressively realize the right to adequate housing, acknowledging that the institution's developmental mandate is implemented on the basis of the borrower's ownership of any World Bank-financed project or programme. The Special Rapporteur also looked at the possible negative impacts of these policies and projects from a right to adequate housing perspective. Finally, the Special Rapporteur assessed to what extent the World Bank Group, as an international legal personality, is bound by international human rights law, and the consequences arising from this.

5. The right to adequate housing as a component of the right to an adequate standard of living is recognized in various international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (art. 11).¹ As interpreted by the Committee on Economic, Social and Cultural Rights, "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity".² In line with this interpretation, "adequacy" is measured against a list of key factors including: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.³

¹ See also the Convention relating to the Status of Refugees and the International Convention on the Elimination of All Forms of Racial Discrimination. With regard to specific populations or groups, see the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

² Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para. 7.

³ *Ibid.*, para. 8.

II. The right to adequate housing and the housing, shelter and urban policies promoted by the World Bank Group

6. In the 1970s, the World Bank started to become active in the housing sector, focusing its action mostly on financing the upgrading of slums and on providing site-and-services projects in cities of middle and low income. In the 1980s, this approach lost ground to policy-based loans focusing mainly on reforming housing market and housing finance. As a result, in the 1990s the World Bank mainly promoted an “enabling markets” approach to housing. This approach was aligned to the prevalent paradigm of the decade and namely, the promotion of macroeconomic policies through structural-adjustment loans. The World Bank has explained that this development had resulted from the institution’s understanding that simple upgrading policies could not have far-reaching sustainable impact if the urban poor did not have enough jobs, income and purchasing power, or if the urban governments did not address the broader policy and regulatory issues that impacted land and housing availability in the first place. The World Bank has described the reforms under this approach as focusing on such issues as “securing land property rights, providing access and cost recovery for infrastructure, and improving the balance sheets of housing institutions. ... The hope has been that pushing this and other aspects of the formal sector housing systems “down market”, eventually would reach lower income households”.⁴

7. The Special Rapporteur welcomes the recent assessment of the World Bank on these policies, which acknowledges that:

despite some successes, affordability problems persist and informality in the housing and land sectors abounds. By [around 2005], it became clear that the enabling-markets approach was ‘far too sanguine’ about the difficulties of creating well functioning housing markets where everyone is adequately housed at a reasonable share of income on residential land available at a reasonable price. The general principles of enabling markets...must be combined with sensible policies and pragmatic approaches to urban planning and targeted subsidies for the urban poor.⁵

8. In this context, the Special Rapporteur also welcomes the November 2009 World Bank Urban and Local Government Strategy. This new strategy consolidates the previous assessment made in the framework of the pro-poor macroeconomic development World Bank strategy reinforced in the last decade and it marks again a shift in the approach of the institution towards housing and urbanization. This new strategy recognizes the need for investing public money on housing, the need for interventions to overcome market failures⁶ and it is open to different approaches in housing policies, including rental housing schemes. It also recognizes the need for a national housing policy – departing from the radical decentralization approach that the World Bank supported in the past. Finally, this new strategy recognizes that urbanization is not only inevitable, it is also a support of economic growth and poverty reduction.⁷

9. Notwithstanding this positive development, the Special Rapporteur believes that there are important challenges which are not adequately addressed in the new sector

⁴ World Bank, Finance, Economics and Urban Department of the Sustainable Development Network, “Systems of Cities: harnessing urbanization for growth and poverty alleviation - the World Bank urban and local government strategy” (2010), para. 93. See also Robert M. Buckley and Jerry Kalarickal, eds., *Thirty Years of World Bank Shelter Lending: What Have We Learned?* (Washington D.C., International Bank for Reconstruction and Development/World Bank, 2006).

⁵ *Ibid.*, para. 94.

⁶ *Ibid.*

⁷ *Ibid.*, para. 3.

strategy of the World Bank, in particular regarding access to land and land management. The institution has to address these challenges in order to implement its new strategy on the ground.

10. The World Bank has acknowledged that one of the main challenges of successful and up-scale slum upgrading and pro-poor operations is access to land, which is deeply affected by its complex “political economy” within cities.⁸ A human rights-based approach to housing can help to face this challenge by understanding housing as an inherent social value, beyond its market and financial value. The World Bank has recognized that it is impossible to reach the poor and the most vulnerable groups and individuals by mobilizing only the private market housing supply. However, the World Bank has not recognized that neither can the poor be reached by relying only on the market land supply. In other words, from a human rights perspective, the land component of housing should also be seen as a public good.

11. For decades, the World Bank has promoted land policies aimed mostly at formalizing land titling, based on and supported by private ownership tenure systems. The experience of the World Bank has shown the complexity of implementing these programmes which, aligned with the general approach of “enabling markets” and “unlocking land values”, were directed more at opening urban land markets to globalized housing finance than at securing land tenure for the poor. Some projects implemented under this framework (including one which was submitted to the Inspection Panel in 2009)⁹ have contributed to raising the vulnerability of the poor, particularly by exposing them to forced evictions.

12. From a right to adequate housing perspective, and in order to reach the poor, security of tenure for the most vulnerable sectors of the society should be promoted by the World Bank through its projects and policies, recognizing and mobilizing different tenure and titles systems, including collective ones. In this context, the Special Rapporteur has been informed of an important initiative undertaken by the World Bank to support in different cities the granting an informal/interim form of tenure security through street addressing projects in urban neighbourhoods.

13. Finally, the Special Rapporteur would like to underline that in the 1990s, through policy-based loans, the World Bank had in many countries promoted reforms of housing policies. While in a large number of countries this has been translated into the establishment of a mortgage market accessible to sectors of the population who had never before accessed credit, this kind of mortgage credit has not benefitted the lowest income populations. Furthermore, these policies also led to an increase in the prices of urban land and therefore created significant problems of affordability even for the middle classes. These strategies have also increased the “peripheralization” and have promoted urban sprawl in a process that contradicts the model proposed by the new World Bank urban strategy to promote a sustainable urban environment.¹⁰

III. The right to adequate housing and the safeguards and sustainability policies of the World Bank Group

14. Beside the housing and urban policies promoted by the World Bank Group and embedded in its projects, the Special Rapporteur also considered the relationship between

⁸ Buckley and Kalarickal, eds., *Thirty Years of World Bank Shelter Lending*, p. 5.

⁹ The Inspection Panel, “Report and recommendation on request for inspection – Cambodia: Land Management and Administration Project (Credit No. 3650-KH)”, 2 December, 2009.

¹⁰ World Bank, “Systems of Cities”, para. 96.

specific projects supported by the Group and the right to adequate housing. In this framework, the Special Rapporteur paid particular attention to the safeguards and policies put in place by the Group to address the social and environmental impacts of the projects it finances – the “do no harm” policies.

15. The Special Rapporteur believes that the safeguards developed by the World Bank, in particular the safeguards on involuntary resettlements, as well as the sustainability policies developed by IFC (particularly the Policy and Performance Standards on Social and Environmental Sustainability, as well as the Performance Standard on Land Acquisition and Involuntary Resettlement) can be important tools for seeking to ensure the respect of the right to adequate housing. These safeguards and policies contain de facto elements of human rights, but there are significant differences regarding the contents and procedures.¹¹ The Special Rapporteur recommends that the World Bank Group use the current process of revision of both the World Bank and IFC safeguards and policies¹² as an opportunity to reframe them from a human rights perspective and in accordance with current human rights standards. In this context the Special Rapporteur wishes to restate her willingness to actively collaborate with the World Bank Group.

16. With regard to the World Bank safeguards, the Special Rapporteur is concerned that while they cover in detail the issue of involuntary resettlement, they ignore other possible social impacts concerning housing which are therefore not adequately addressed by the institution.¹³

17. Furthermore, the Special Rapporteur is concerned that while development policy loans represent in an average year about 25-30 per cent of the World Bank portfolio,¹⁴ it is unclear how exactly the social impact of these loans is taken into account by the institution, despite the fact that it is required to assess possible distributional and social impacts of policies supported by development policy loans. Finally, with regard to the emergency loans established in cases of post-disaster reconstruction – which also represent an increasing share in the World Bank portfolio – the Special Rapporteur understands that the safeguards are applicable, but in a later stage, namely, in the preparation of the post-project phase. Issues related to land tenure systems and access to land are key elements in the reconstruction phase and can lead to increased vulnerability and exposure to housing rights violations if not addressed at an early stage. In this context, the Special Rapporteur believes that it is crucial to recognize the need to act promptly and to undertake a mapping of property and a land tenure analysis in order to then be able to adequately apply the safeguards and design proper reconstruction projects. These actions should take place immediately after the emergency phase and while preparing a social assessment.

18. The Special Rapporteur welcomes the broader scope of the IFC sustainability policy and performance standards as it covers a wider range of the social impacts that projects can

¹¹ See “Amnesty International submission to the review of the International Finance Corporation (IFC) Sustainability Framework”, May 2010. Available from www.amnesty.org/en/library/info/TOR80/003/2010/en.

¹² See Independent Evaluation Group/ World Bank, *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*, IEG Study Series (Washington D.C., World Bank, 2010).

¹³ See also *ibid.*, pp. xxv-xxxiii.

¹⁴ The World Bank informed the Special Rapporteur that this proportion has been stable over the last decade. During the financial crisis that began in 2008, the share of development policy operations in total World Bank (International Bank for Reconstruction and Development (IBRD)/ International Development Association) financing rose from 29 per cent during the fiscal years 2005-2007 to 37 per cent in the fiscal years 2008-2010, while IBRD financing through development policy operations rose sharply, reaching 47 per cent in the fiscal year 2010.

have on housing. However, she noted with concern that there is an ongoing trend at IFC to work with intermediaries' financial institutions and that in this framework the IFC policies and performance standards are not fully applied. In these cases, IFC only requires the intermediaries to have a management system in accordance with the IFC standards as far as corporate good governance is concerned and this is supervised only on a sample, not project-by-project, basis.

IV. Accountability mechanism

19. The Special Rapporteur believes that the establishment of accountability mechanisms such as the World Bank Inspection Panel and the IFC Multilateral Investment Guarantee Agency (MIGA) Compliance Advisor/Ombudsman have been helpful to indirectly scrutinize the impact of the World Bank Group projects on human rights, including the right to adequate housing, and to hold the Group accountable. However, both the Inspection Panel and the IFC/MIGA Compliance Advisor/Ombudsman have been mandated to investigate only situations related to the alleged non-compliance by the World Bank or the IFC/MIGA with their own respective policies and procedures, thus a large number of projects cannot be investigated by those particular mechanisms.

20. Most of the complaints received by these mechanisms are linked to human rights issues, but due to their limited "jurisdiction" they cannot address the full spectrum of human rights problems that can be generated by a World Bank Group project. Finally, even with limited development on this issue, it is still unclear whether and to what extent these mechanisms could refer to international human rights law.

21. Although the findings of these mechanisms are not legally binding, the Special Rapporteur appreciates their positive impact on the creation of incentives for the World Bank Group staff to properly implement their "do no harm" policies and procedures, as well as on the influences on projects similar to those subject to a request for inspection.¹⁵

22. As a complement to these mechanisms, and in order to strengthen the accountability of the World Bank Group and to integrate the affected communities in the process of settlements of disputes generated by projects financed by the Group, the Special Rapporteur recommends that the Group consider establishing, at the local level, mechanisms of mediation and grievance redress independent both from the borrower and the World Bank Group.

23. Finally, the World Bank Group, besides lending to States and private sectors, has also provided non-lending analytical and advisory services and has been a knowledge-disseminating institution throughout the world, especially on public policies. This role was particularly important during the Washington Consensus period and it had a great impact on the policy reforms undertaken during the 1980s and 1990s. In the current new context, the World Bank Group should as a matter of priority acknowledge the perverse effects of the policies promoted in the 1980s and 1990s (especially on the most poor and vulnerable), provide the countries concerned with support to mitigate those effects and include human rights when designing its new policies.

¹⁵ IBRD/International Development Association, Inspection Panel, *Accountability at the World Bank: The Inspection Panel at 15 Years* (Washington D.C., International Bank for Reconstruction and Development/World Bank, 2009), pp. 79-93.