

Honorable Mohamed Istiyak Rayi
Minister
Ministry for Urban Development
Singha Durbar, Kathmandu
Nepal.

Colombo/Kathmandu,

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Honourable Minister Rayi,

Amnesty International is pleased to submit our comments on the Right to Housing Act 2018, and a set of recommendations that aim at strengthening legal protection against homelessness and unsafe housing in Nepal. These comments and recommendations follow consultations with multiple stakeholders including Nepali civil society organizations in October/ November 2018.

The document entitled "Nepal: Adequate Housing for All: Analysis of the Right to Housing Act 2018" offers a thorough analysis of the Act's provisions and its compliance with the Constitution of Nepal as well as Nepal's international human rights obligations. Amnesty International calls on the Government of Nepal to strengthen the Act and keep its promise to prevent homelessness and ensure safe and adequate housing for all.

While the enactment of the 2018 Right to housing law is an important step towards fighting against homelessness, the briefing identifies numerous gaps and offers a set of recommendations to bring the law in line with the country's international human rights obligations on the right to adequate housing.

As this briefing points out, the current law needs to be amended to address the underlying causes of homelessness and ensure adequate safeguards against forced evictions of people from the home and land they occupy. Currently, the law only protects those residing in the house built on "the land that they own" contrary to international human rights law and standards.

The briefing also stresses the need to clearly lay down specific duties for each level of government, require authorities to conduct periodic assessments of homelessness in the country, and identification of homeless people, and put in place an effective mechanism to respond to the situations of individual, household or a community level homelessness.

Amnesty International also urges the Government of Nepal to ensure that the law supports marginalized communities, such as people living in poverty, those living in informal settlements, Dalits and land-dependent indigenous peoples, including Tharu. The key recommendations are summarized as follows:

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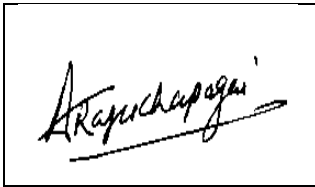
- Widen the scope of the Act to address underlying causes of homelessness and create a conducive environment for enjoyment of the right to housing by all.
- Extend the legal protection under the Act to non-citizens as well.
- Define key terms including “homelessness”, “security of tenure”, “affordability of housing” and “adequacy of housing” consistent with international human rights standards.
- Obligate the authorities to set up a mechanism responsible to regularly track the situation of homelessness and respond to the situation.
- Bring a clarity on the roles and responsibilities of each tier of government and obligate them to assess the underlying causes of homelessness and take necessary measures.
- Provide statutory certainty of substantive entitlements to the right to housing.
- Require all three tiers of government to harmonize their policies and programmes in line with the guarantees under the Act.
- Rectify Article 37(2) of the Constitution that would result in a licence for the authorities to forcibly evict slum dwellers or informal settlers either through judicial interpretation or constitutional amendment.
- Ensure protection from forced eviction regardless of forms of the housing tenures and provide adequate procedural safeguards.
- Require “free, prior and informed consent” in line with ILO 169 in terms of evictions affecting Indigenous Peoples.
- Obligate local government to provide temporary housing to those in need of such facility.
- Ensure that the involvement in any income-generation activities for sustaining their lives would not be a condition to withdraw ownership of the housing provided by the Government under this Act.
- Create an immediate obligation to house destitute people and those in need of social protection.
- Create an immediate obligation to accommodate homeless people in temporary or emergency housing facility.
- Obligate authorities to proactively identify those in need of housing facility.
- Provide for a joint ownership of husband and wife over the housing facility provided by the government.
- Regularize and provide legal recognition of rental accommodation and informal housing tenure.
- Ensure inviolability of residences regardless of forms of housing tenure.
- Provide protection from arbitrary termination of rental contract and overcharging
- Require to adequately compensate against forced eviction, intimidation or harassment of a tenant.
- Set eligibility criteria in such a way that those engaged in life-sustaining activities would also be able to claim the housing facility from the government.
- Provide for holding authorities to account for forced evictions.
- Criminalize acts that discriminate, intimidate or harass homeless persons or deprive them of their life-sustaining efforts.
- Provide measures that protect from discriminatory practices that impair access to housing by special categories of the population such as Dalits, people living with HIV, sexual minorities and other marginalized groups.
- Remove the provision providing for revocation of the housing facility simply because the recipient did not reside in the facility for three years.

All concerned stakeholders, including civil society organisations, National Human Rights Commission and other thematic commissions including National Women Commission,

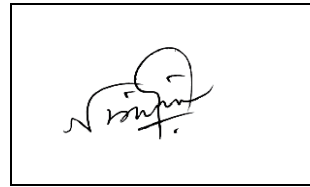
National Dalit Commission, National Inclusion Commission, Commission on Indigenous Nationalities, Tharu Commission, Madhesi Commission and Muslim Commission should be given enough space and time to express their opinions and thereby ensure their ownership over the amendment of the Act, formulation of the rules, regulations, standards and the plan necessary to implement the Act.

We look forward to receiving your response to the attached document and remain available for further consultations or clarifications that you may require.

Yours sincerely,



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