

**Report Submitted to the United Nations  
Special Rapporteur on the Responsibilities  
of Subnational Governments with Respect  
to the Right to Adequate Housing**

**Istanbul Bilgi University  
Human Rights Law Research Center**

**October 2014**



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COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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## Mandate of the Special Rapporteur on the right to adequate housing

### I. Background and objectives of this questionnaire

In her upcoming report to the General Assembly, 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, Ms Leilani Farha, outlines some of the priority themes that she intends to address during her mandate (A/69/274).<sup>1</sup>

Among others, she identifies the increasingly important role of governments at the sub-national level (state, provincial and municipal) in the implementation of the right to adequate housing. In many countries sub-national levels of government hold key responsibilities for a range of programs and policies linked to adequate housing, including not only housing programs but also income assistance programs, provision of water, sanitation, electricity and other utilities, tenancy and security of tenure legislation, programs assisting particular marginalized and vulnerable groups (such as migrants, persons with disabilities, women, Indigenous peoples, among others) and implementation of housing strategies and strategies to address homelessness.

Since under international law, accountability to human rights norms and standards operates primarily through the national level government, there are often particular challenges facing countries in ensuring implementation of the right to adequate housing by sub-national levels of government. The Special Rapporteur notes that this issue has not attracted concentrated attention from special procedures mandate holders though often arising in the examination of the situation in many countries. Hence, she has decided to focus her first thematic report to the Human Rights Council, pursuant resolutions 15/08 and 25/17, on the question of enhancing accountability to international human rights norms and standards of sub-national governments in relation to adequate housing.

The Special Rapporteur is mindful of diverse domestic arrangements of responsibilities among various levels of government. She wishes to better understand those arrangements and existing mechanisms for monitoring and accountability for the implementation of binding international human rights treaties related to the right to adequate housing. This questionnaire is designed to invite Governments and other relevant stakeholders to share information and inputs for the report, which will be presented to the Human Rights Council at its 28th session in March 2015.

This questionnaire aims to identify key challenges facing States in relation to the implementation of the right to housing by subnational levels of government and the primary means through which accountability to international human rights can be ensured. It also aims to identify illustrative examples of the kinds of issues faced by countries in the implementation of the right to adequate housing through sub-national governments and new and innovative strategies that have been developed to address these issues, or other examples of good practices. The Special Rapporteur also hopes to learn of sub-national initiatives to ensure accountability to the right to adequate housing, in particular to those vulnerable to rights violations (eg. incorporating the right to adequate housing, non-discrimination and other housing-related rights into city, provincial/state Charters).

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<sup>1</sup> The report is available at: <http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>



## II. Submission of Responses

Kindly bear in mind that the study does not intend to address the detailed distribution of responsibilities in each country, but aims to focus on an overview of challenges and examples of practices which will be of benefit to the Special Rapporteur in understanding the situation. Therefore, it is hoped that responses will provide a brief overview of how responsibilities are divided up and some concrete examples of challenges and how these have been addressed.

When possible, please identify links or provide copies of any law, regulation, policy or other document related to your answers. Due to limited capacity for translation, we kindly request that you submit your answers, if possible, in English, Spanish or French and, **no later than Friday, 31 October 2014**.

Please send your responses preferably via email to: [srhousing@ohchr.org](mailto:srhousing@ohchr.org), or to:

UN Special Rapporteur on adequate housing  
Office of the High Commissioner for Human Rights  
Special Procedures Branch, Palais Wilson, Room 3-077  
CH – 1211, Geneva 10  
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For any question, please contact the Special Rapporteur through her assistant, Ms. Juana Sotomayor, Special Procedures Branch- OHCHR: email: [jsotomayor@ohchr.org](mailto:jsotomayor@ohchr.org); phone: +41 22 917 94 45.

## III. Questionnaire

### A. Distribution of responsibilities related to the right to adequate housing:

1. *Please identify the levels of government (national, provincial/state, municipal) primarily responsible for the following: (where primary responsibility is shared please check more than one):*

	National/ Federal	Provincial/ State	Municipal	Explanatory Notes
Housing programme	X		X	Please see the answer to the 2 <sup>nd</sup> question below for further information
Income support (eg: transfer payments to individuals, welfare, social security and/or rent subsidies/supplements)	X		X	
Tenancy and security of tenure legislation	X			
Infrastructure (eg: Water/sanitation, electricity)	X		X	
Prohibition of discrimination in housing	X		X	Art. 10 of the Constitution: Equality before the law (does not mention housing explicitly) (article is applicable to central



				government as well as local governments. But Turkey does not have an anti-discrimination law.
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2. ***What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible:***

***Constitutional***

Turkish Constitution<sup>2</sup> (1982), protects the right to housing in the **Article 57** and categorizes it as a social right, such that it requires the allocation of adequate resources and intervention of the State. According to this article, the State is responsible for the preparation of housing programs, taking into account environmental aspects and specific needs of the cities. The relevant program is expected to support community-based housing projects.

Under **Article 2** of the Constitution, Turkish Republic is a social state, based on the rule of law and respect for human rights. There is also a general provision regarding “duties of the State” providing an obligation for the State to remove political, economic and social obstacles which restrict the welfare of individuals and of the community. According to **Article 65** of the Constitution, social rights shall be realized by taking into account financial capacity of the state and priorities in the field of social rights. The main challenge resulting from the social right character of the right to housing is that, the financial ability of the State usually is invoked frequently as a justification for the failure to fulfil State obligations.

According to **Article 10** of the Constitution “Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds. Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality. Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of the principle of equality. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.

**Article 61** of the Constitution stipulates that, “The State shall protect the widows and orphans of martyrs of war and duty, together with invalid and war veterans, and ensure that they enjoy a decent standard of living. The State shall take measures to protect the disabled and secure their integration into community life. The aged shall be protected by the State. State assistance to, and other rights and benefits of the aged shall be regulated by law. The State shall take all kinds of measures for social resettlement of children in need of protection. To achieve these aims the State shall establish the necessary organizations or facilities, or arrange for their establishment.”

<sup>2</sup> English version of Turkish Constitution of 1982, [http://global.tbmm.gov.tr/docs/constitution\\_en.pdf](http://global.tbmm.gov.tr/docs/constitution_en.pdf) [Accessed: 22.10.2014].



*National framework legislation or housing strategy*

**10<sup>th</sup> National Development Plan (2014-2018)<sup>3</sup>:** The latest development plan which is applicable countrywide and has to be taken into consideration by all public authorities refers to a project called “Urban Transformation Program Promoting Competition and Social Harmony.” The Project is to be implemented by the Ministry of Environment and Urbanism Housing Development Administration of Turkey (TOKI), the Ministry of Development and the Ministry of Family and Social Policies, under the coordination of the Ministry of Environment and Urbanism.

**62<sup>nd</sup> Government Program<sup>4</sup>:** During the term of office of the new government, urban transformation projects will be at the core of housing strategy of the government. The government aims at renovating and transforming 6.5 million houses until 2023 with the collaboration of the private sector, as well as local governments. The other objective of the Government is to start “rural transformation” projects. With the introduction of the new Metropolitan Municipality structure by the Law No. 6360 in 2012, public corporate personality of many villages which is protected by the Constitution is abolished and those local government structures are transformed into neighbourhoods of municipalities. Rural transformation aims at implementing similar urban policies to village areas. Mass housing strategy is also one of the most important components of the Government program.

**Law No. 2985 Mass Housing Law<sup>5</sup>:** This Law, which governs the basic principles of mass housing reflects the approach adopted by the State regarding the housing problem in Turkey. Organizational, as well as financial aspects of the issue are also governed by this Law. TOKI is given the authority to plan and develop projects aimed at eliminating areas of substandard housing, to prepare and modify such plans and to develop and make necessary financial arrangements for slum transformation projects.

**Law No. 6306 on the Transformation of Areas under Disaster Risk:** The urban regeneration process is mainly based on this Law. The focus of the Law is on risk areas that are defined as areas that may cause loss of life or assets during disasters. The risk areas are determined by the Ministry of Environment and Urban Planning, TOKI or municipalities, after consulting the Presidency of Disaster and Emergency Management and adopted by the Council of Ministers upon a proposal from the Ministry. Under article 5, if the owners arrive at an agreement with the state on renovation, destruction or improvement of their properties at risk of disaster and other risk-prone buildings, State may provide housing benefits by a decree released by the Council of Ministers/Cabinet (discretionary power of the Central Government).

*Sub-national level legislation or housing strategy*

**Law No. 5393 (2005) on Municipality<sup>6</sup>:** The Law governs the duties and responsibilities of the municipalities. Housing is one of the main duties of those local government entities. The relevant articles regarding housing responsibilities of municipalities are: Article 14,

<sup>3</sup> 10<sup>th</sup> Development Plan,

<http://www.kalkinma.gov.tr/Lists/Kalknma%20Planlar/Attachments/12/Onuncu%20Kalk%C4%B1nma%20Plan%C4%B1.pdf>, [Accessed: 20.10.2014].

<sup>4</sup> For the Government Program see

[http://www.basbakanlik.gov.tr/Forms/ Global/ Government/pg\\_GovernmentProgram.aspx](http://www.basbakanlik.gov.tr/Forms/Global/Government/pg_GovernmentProgram.aspx) [Accessed: 22.10.2014].

7.htm&main=http://www.resmigazete.gov.tr/eskiler/2014/09/20140907.htm. [Accessed: 22.10.2014].

<sup>5</sup> Please see, <http://www.TOKI.gov.tr/english/MASSHOUSINGLAW.PDF> [Accessed: 22.10.2014].

<sup>6</sup> Promulgated in the Official Gazette - No. 25874, 13 July 2005.

Article 38, Article 69 and Article 73. Article 73 on Urban Transformation refers to both municipalities and metropolitan municipalities.

**Law No. 5216 on Metropolitan Municipality:** The relevant article regarding housing responsibilities of the metropolitan municipalities is Article 7 (Duties and Responsibilities of Metropolitan, District and First-Tier Municipalities). Duties include fire inspection and evacuation and demolition of buildings posing disaster risk.

**Law No. 5366 Law on Renovating Conserving and Actively Using Dilapidated Historical and Cultural Immovable Assets<sup>7</sup>:** The law propounds renewal sites in order to consolidate the urban structure for earthquake risk mitigation and regenerate especially the deprived neighbourhoods of historic city centre through the utilization of mixed uses. Renewal zones decisions is taken by Municipal Assemblies in the settlements having municipalities and by General Assembly of Provinces in the settlements outside governed by Special administration of Provinces outside municipal boundaries.

**Law No. 6360 on the Establishment of the Thirteen New Metropolitan Municipalities and Twenty Six Districts:** The law changed the administrative structure of local government and increased the number of the metropolitan municipalities in the country. Currently there are 30 metropolitan municipalities in Turkey out of 81 provinces.

According to Article 17<sup>8</sup> of this Law, the metropolitan municipalities and the municipalities with 100.000 or more inhabitants have to establish shelters for women and children.<sup>9</sup> Other municipalities may establish shelters by taking their financial situation and priorities into consideration. According to 2014 data, there are 92 shelters under the authority and responsibility of the General Directorate on the Status of Women (under the Ministry of Family and Social Policies) and 33 shelters under the authority and responsibility of municipalities. 3 shelters are run by women NGOs. In total there are 128 shelters all over Turkey.<sup>10</sup>

**Law No. 755 on Slum Houses:** According to art. 25 of this Law, land shall be given to those who are or who will become homeless due to evacuation of slums.

*Inter-governmental agreement*

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*Other – Please explain*

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**3. What role does the national level government play in relation to housing and related programs? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly**

<sup>7</sup> Please see: [http://www.migm.gov.tr/en/Laws/Law5366\\_DilapidatedHistoricAssets\\_2010-12-31\\_EN\\_rev01.pdf](http://www.migm.gov.tr/en/Laws/Law5366_DilapidatedHistoricAssets_2010-12-31_EN_rev01.pdf) [Accessed: 22.10.2014].

<sup>8</sup> Article 17 of the Law No. 6360 amended the regulation in Article 14 of the Law No.5393. According to Article 14 of the Law No. 5393 metropolitan municipalities and municipalities with 50.000 or more inhabitants establish shelters for women and children.

<sup>9</sup> Instead of shelters, the term “guesthouse” is used in the legislation. However, women’s organizations criticized the use of “guesthouse” instead of “shelter”.

<sup>10</sup> <http://www.kadininstatusu.gov.tr/tr/28222/>. [Accessed: 29.10.2014].

*provide concrete examples of how these roles and compliance mechanisms are operationalized.*

TOKI, which reports directly to the Prime Minister and is in charge of delivering affordable mass housing in the country is the main institution at national level that deals with the issue of housing. The Mass Housing Law No. 2985 establishes the process of transformation of slum areas and determines the task of TOKI. TOKI has the power to form partnerships with private construction companies; and takes part in the construction and selling of houses for profit; is able to take over state urban land at no cost with the approval of Prime Ministry and the President's Office; expropriates urban land to construct housing projects and to develop and implement squatter house transformation projects.

The Municipal Law No. 5393 confers responsibilities regarding urbanization and development projects to municipalities and TOKI. Examples can be given as Sulukule, Fener-Balat, Tarlabasi and Tozkoparan from Istanbul.<sup>11</sup>

**4. *Where sub-national governments hold key responsibilities in relation to the right to adequate housing, please describe how programs and policies are co-ordinated nationally and what responsibilities remain with national level institutions.***

The Municipal Law No. 5393 enables the municipalities to form partnership with TOKI to undertake urban transformation projects; the municipalities select the land, TOKI undertakes the construction. Thus both municipalities and TOKI play a crucial role and they cooperate with each other closely in relation to housing in the country. Slum Houses Law No. 755 also requires cooperation between municipalities and TOKI.

Article 73 of the Municipal Law particularly deals with the responsibilities that should be considered under the municipalities regarding the urban regeneration projects. The Article also states "The areas to be subject to urbanization and development projects shall be announced under the decision of the absolute majority of the entire members of the Municipal Council." The Article 4 of the Law No. 2985 also assigns responsibility to the municipal councils for the urban regeneration projects.

Besides, municipalities have a primary role in terms of housing and their duties are underlined in the Municipal Law. Article 14 of the Municipal Law clearly defines the role of municipalities as "providing services of urban infrastructure such as development of the region, water, sewage system and transportation; geographical and urban data systems; environment and environmental health, cleaning and solid waste; security forces, fire brigades, emergency aid, relief services and ambulance; city traffic; funeral and cemetery services; forestry, parks and green areas; housing, cultural and artworks, tourism and presentation, youth and sporting activities; social and aid services; marriage ceremonies professional trainings; and services aimed at development of economy and commerce."

Law No. 6360 is criticized for increasing the administrative tutelage of the Central Government over local authorities and for opting for profit generation, instead of strengthening citizen-focused public services.

<sup>11</sup> Please see Mission Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT (AGFE) (Istanbul, 8-11 June 2009): [http://mirror.unhabitat.org/downloads/docs/10008\\_1\\_593994.pdf](http://mirror.unhabitat.org/downloads/docs/10008_1_593994.pdf) [Accessed: 22.10.2014]



**5. *Where housing and related programs are administered by sub-national level governments, by whom and how are these programs funded? Are conditions attached to the funding which seek to ensure the resources are spent in a way that protects the right to adequate housing? How is this monitored?***

Liquidation of Mass Housing Fund and Real Estate Credit Bank and transfer of their funds to TOKI provided a considerable revenue for TOKI. Law No. 2985 gave TOKI the authority to sell state owned lands including 2B land,<sup>12</sup> to establish private building sector firms or be a shareholder in such firms, give loans to banks for the financing of housing etc. TOKI provides financial sources through land sales to large firms and shares the income earned via the sales of the houses. Under the new law, 2B land eligible for construction, land that has not been built upon yet, will be allocated to mass housing.

Revenues of TOKI can either be directly used by TOKI, can be given as loans by TOKI or can be given as loans through banks, housing cooperatives established by disaster victims and the poor or municipalities.

Under the Slum Houses Law, land transferred to municipalities under this Law can be used for housing purposes either directly by TOKI or by municipalities with the approval of TOKI.

Even though it is possible under the Law for TOKI to provide funding to municipalities through loans, the financial burden mainly falls on the municipality. They have to generate their own revenues in order to invest on housing.

**B. Accountability of Sub-National Governments**

**1. *Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?***

- International human rights law? **No**
- Constitution/National Bill of Rights - **No**
- National or sub-national legislation **Yes**

**Supervision on Municipalities**

**Law No. 5393 on Municipality:**

**Purpose of supervision: Article 54-** The supervision on municipalities shall include independently analyzing, comparing and measuring, assessing on the basis of evidence the service processes and results according to the legislation against the predetermined goals and objectives, performance criteria and quality standards, making the results into a report and informing the relevant parties in order to assist the municipalities in preventing errors in their activities and acts and provide guidance for the development of their staff and organization, making their management and control systems valid, reliable and consistent.

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<sup>12</sup> 2B lands are areas where construction and agricultural activity were banned by the state and had previously been labelled as forestland. The 2B land covers 1.66 million hectares (4.1 million acres), which equals to approximately 2% of the country.





**Scope and types of supervision (Article 55)** Municipalities shall be subject to **internal and external supervision**. Supervision shall cover the **legal compliance of acts, and financial and performance auditing**. Internal and external supervision shall be conducted in accordance with the provisions of the Law No. 5018 on Public Fiscal Administration and Control. In addition to the municipality's financial transactions, the **Ministry of Interior shall also monitor the municipality's administrative acts in terms of legal compliance and integrity of administration**. Municipalities' affiliated entities and enterprises shall also be audited in accordance with the foregoing rules.

The outcome of audits shall be made public, and communicated to the municipal council.

**Activity report: Article 56** - The mayor shall draw up an activity report in the manner prescribed in the fourth paragraph of Article 41 of the Law No. 5018 on Public Fiscal Administration and Control, **indicating the activities conducted in accordance with the strategic plan and the performance program, the goals and the extent of their achievement against the performance criteria determined and the reasons for any deviations therefrom, together with the state of the municipality's debts**. The activity report shall also include such information and assessments in respect of the municipality's affiliated entities and enterprises and municipal companies.

The mayor shall submit the activity report to the municipal council during the meeting in April. A copy of the report shall be communicated to the Ministry of Interior and the report shall be made public.

**Failure in services (Article 57):** Where, **at the request of the Ministry of Interior**, the competent judge of the peace court finds that a **municipality's services are seriously failing and such failure is adversely affecting the population's health, peace and well-being to a vital degree**, the Minister of the Interior shall ask, and allow reasonable time to, the mayor to remedy the failure in service provision in the light of the particular nature of the service. **If the failure cannot be remedied, the Minister shall request the governor of the province concerned to provide the service in question**. Then, the provincial governor shall at first remedy the failure by means of the municipal equipment, staff and other facilities. If that is impossible, he may also use the resources of other public entities. The provincial governor shall notify the Bank of Provinces of the cost incurred, and the Bank of Provinces shall place the amount at the disposal of the provincial governor's office out of the apportionment allocated to the municipality concerned out of its total amount of tax revenue under the general budget for the following month.

The municipality concerned may appeal to the law court of first instance against the decision taken by the judge of the peace court at the request of the Ministry of Interior.

The Ministry of Interior has a complaints mechanism regarding local governments and local government employees.<sup>13</sup>

There is also an Ethical Board of Public Employees, where complaints can be made against local government employees.<sup>14</sup>

- State level or municipal level Bills of Rights/Charters - **No**
- Inter-governmental agreements - **No**

<sup>13</sup> <http://www.migm.gov.tr/BizeUlasin.aspx?DetayId=1> [Accessed: 30.10.2014].

<sup>14</sup> <http://www.etik.gov.tr/> [Accessed: 30.10.2014].

- Conditional financing (eg: budget transfers from national level to sub-national)  
**Yes**

Please see above the comments on the Law No. 5393 on Municipality art. 54-57.

2. With respect to the above and where applicable, please identify:
- i. the relevant provision.
  - ii. the sub-national levels of government to which the legal provision applies.
  - iii. the means of enforcement (eg: courts, tribunals, national human rights institution, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied.

Constitutional Court, Administrative courts, Turkish Human Rights Institution and the Office of the Ombudsperson would have the authority. However, it has to be noted that the decisions of the Turkish Human Rights Institution and the Ombudsperson are not binding.

3. *Are sub-national governments involved in State reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg, UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.*

There are no direct legally binding provisions regarding the responsibility of the local government structures in the implementation of housing rights at local level. However, constitutional framework relating to general administrative principles, special laws on the mandate of local governments and finally human rights obligations of Turkey arising from international or regional human rights conventions offer a broad range of opportunities to determine the scope of responsibilities of local governments.

Istanbul Bilgi University Human Rights Law Research Center submitted a report<sup>15</sup> to the Human Rights Council on Turkey regarding the human rights obligations of local government. None of the central or local government structures in Turkey submitted a report on the current situation of human rights at local level.

4. *Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg, Government review procedures, ombudsman/national human rights institutions, local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.*

Above all, it is crucial to note Municipality Law No. 5393, which can be regarded as an opening for participatory policy and participation of the public in decision-making mechanisms at the local level. First of all, the Municipality Law states that local residents have the right to participate in municipal decisions and municipal services. Secondly,

<sup>15</sup> Report submitted by Human Rights Law Research Center of Istanbul Bilgi University, <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LocalGovernmentAndHR.aspx>, [Accessed: 19.10.2014].

comprehensive changes made the preparation of strategic plans necessary for municipalities with a population of 50,000 or more. Article 41 of the Municipality Law clearly assigns municipalities the task of preparing a development plan and program, as well as a strategic plan in compliance with the regional plan (if any) within six months of local elections by seeking the opinion of universities, chambers (if any), and NGOs. Third, it establishes a City Council<sup>16</sup>, a new body in municipal administration, to cater for a local participatory process on behalf of local residents, as a main institutional context reflecting a participatory approach. The framework for the operation and functioning of the City Council would be determined in accordance with by-laws to be prepared by the Ministry of the Interior.

However, despite the changes and openings in the legal framework, currently, there is a prevailing lack of in-depth knowledge and understanding on how participatory processes can work. City Councils are formed under Municipal Law No. 5393 and regulations are set with the Ministry of Interior by-laws that came into effect on 8 October 2006. Nevertheless there are no monitoring mechanisms for ensuring the effective functioning of City Councils and their participation in decision-making mechanisms. The new legal and policy frameworks, while necessary for creating avenues for participation, may not always suffice to ensure it.

**5. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges.**

**Participation and consultation:** The top down planning without consulting affected communities or consideration of the social dimensions and cultural practices, historical neighbourhoods whose residents own legal title, as in Sulukule and Tarlabasi of Istanbul have become subject to urban regeneration. Planners and developers impose unaffordable luxurious projects on these populations, compelling them to leave. If they do not sign a contract and become partners to the project, their properties are expropriated under the law.

This turns into a latent forced-eviction mechanism, since the relocated populations, unable to pay their instalments either face foreclosures or sell their shares with debt to 3<sup>rd</sup> parties. Retaining few or no assets, they move out, more impoverished than before, also losing all their social networks and solidarity ties, vital mechanisms of survival for the urban poor. They are further impoverished and deprived and eventually displaced.

A new law passed in July 2005 (Law No.5366) codifies and systematizes forced eviction without consultations with the affected communities.<sup>17</sup>

**Transparency:** TOKI provided financial sources through land sales to large firms and shares the income earned via the sales of the houses. TOKI's revenue sharing model is not fully transparent and public assets had been sold below fair value. TOKI has been dogged for corruption recently and there are questions about the transparency of the tenders. TOKI has the immunity from public auditing and regulation.

The active privatization of public assets and public functions, urban planning projects by the government and private sector have hindered the realization of the housing rights in

<sup>16</sup> It is crucial to note the difference between Municipal Councils, local elected bodies and the City Councils that are open to public participation and became to the agenda in 2005 with the aim of making the local administration more participatory.

<sup>17</sup> Renovating, Conserving and Actively Using Dilapidated Historical and Cultural Immovable Assets Act, No.5366.

Turkey. The programs of privatization and structural adjustment to relinquish the financial responsibility and public benefits of state economic enterprises have particularly harmed the poor while especially targeting minorities and marginalized segments such as Kurds, transgender persons and Roma people in favour of private real estate investment schemes in greater İstanbul and other cities. There is an urgency to fulfil state's commitment to transparency and set clear standards for privatization process and human rights grounded land and housing policies.

In recent years, TOKI's control over the housing sector grew. Even though from afar it might look like a positive development, this development has many troubling aspects, including transparency. TOKI's control over municipalities leaves no space for local self-governance. Secondly, claiming to be doing it for creating revenues for housing for the poor, TOKI has shifted its energy to build houses for the rich. In 2009, TOKI built almost 282 thousand residential houses across the country, but only 20 thousand (about 7%) targeted the poor and low-income groups. While only 850 of 64 thousand of all ongoing housing projects in İstanbul build for the poor and low-income groups.<sup>18</sup>

### **Disadvantaged and vulnerable groups in the society, migrants and refugees:**

The influx of Syrian refugees into Turkey, especially to the border towns to escape the civil war face with the housing problem. It is estimated that there are 1.5 million Syrian refugees in Turkey; while 1/5 of them stay in the refugee camps and the rest of the refugee population are trying to reach adequate housing as rent and house prices to skyrocket in frontier cities. Soaring demand from Syrians combined with a shortage in land has caused real estate prices in the southeastern Turkish provinces of Gaziantep, Sanliurfa and Kilis to double and rents to soar up to three-fold compared to two years ago.

There are particular groups in Turkey who lack access to adequate housing due to unavailability of legal framework and public policies. These groups are:

- Groups who become socially excluded due to their ethnic origin, sexual orientation or sex identity and have limited options to tenements being refused by landowners/neighbours due to their identity,
- Disabled people,
- Elderly,
- Urban poor, people from lower socio-economic classes,
- University students faced with inadequate affordable accommodation and dormitory housing,
- Women who are exposed to or under the threat of domestic violence and cannot be provided with secure permanent housing by the state due to limited number of shelters particularly in densely populated cities.

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<sup>18</sup> Housing Development Administration of Turkey (TOKI), *Building Turkey's Future, Corporate Profile 2008–2009* (Ankara: Republic of Turkey Prime Ministry, 2009), at: [http://www.TOKI.gov.tr/docs/yayinlar/TOKI\\_book\\_sec\\_en.pdf](http://www.TOKI.gov.tr/docs/yayinlar/TOKI_book_sec_en.pdf) [Accessed: 22.10.2014].