



**Lawyers For  
Universal Rights  
Association**



**Report on Right to Housing and  
Access to Housing in Turkey after  
the February 2023 Earthquakes**



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*A Place for Everyone to Live with Dignity:  
Making housing affordable, Contribution of the  
Lawyers for Universal Rights Association (LURA)  
from Turkey to the report to be submitted by the  
Special Rapporteur on the Right to Adequate Housing  
to the 78th session of the UN General Assembly*



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## Report on Right to Housing and Access to Housing in Turkey after the February 2023 Earthquakes

On 6 February 2023, two earthquakes with magnitudes of 7.8 Mw and 7.5 Mw were recorded in Kahramanmaraş province of Turkey, and on 20 February 2023, a 6.4 Mw<sup>1</sup> magnitude earthquake was recorded in Hatay province of Turkey. According to official statements, the earthquakes caused at least 50,399<sup>2</sup> deaths in Turkey and at least 8,476 deaths in Syria. After the earthquakes, nearly 17 thousand aftershocks occurred.

According to official reports, 227,027 buildings consisting of 637,222 independent units were destroyed or rendered unusable in the 11 provinces affected by the earthquake.<sup>3</sup> As a result of this large-scale destruction, millions of people have been forced to migrate for their basic needs, including shelter.<sup>4</sup>

This report will evaluate the housing crisis that emerged in Turkey in 2023 with the devastating earthquakes in the context of the right to housing and access to housing.

The report will first summarize the legal framework on the right to housing after the earthquake within the scope of Turkey's legislation and international human rights law conventions to which Turkey is a party.

1 [https://en.wikipedia.org/wiki/2023\\_Turkey%E2%80%9393Syria\\_earthquake](https://en.wikipedia.org/wiki/2023_Turkey%E2%80%9393Syria_earthquake)

2 <https://yesil-gazete.org/maras-depremlerinde-can-kaybi-re-smi-aciklamalara-gore-50-bin-399a-yukseldi/>, <https://reliefweb.int/report/turkiye/turkey-earthquake-emergency-situation-report-06042023>, Accessed on: 25.04.2023

3 <https://www.bloomberght.com/bakan-kurum-yikilan-bina-sayisini-acikladi-2326345>, <https://www.bbc.com/news/64568826>, Accessed on: 25.04.2023

4 UN development experts warn 1.5 million people left homeless in Turkey after earthquake disaster, <https://www.bbc.com/turkce/articles/cmlz378494xo>, <https://www.theguardian.com/world/2023/feb/20/thousands-dead-millions-displaced-the-earthquake-fallout-in-turkey-and-syria> Accessed on: 25.04.2023

5 <https://www.ohchr.org/en/calls-for-input/2023/-call-in-puts-place-live-dignity-all-make-housing-affordable>

Secondly, the housing conditions of earthquake survivors after the February 2023 earthquakes, and current policies and practices regarding access to the right to housing will be discussed.

The report will also provide general assessments on the affordability of housing in line with the United Nations Special Rapporteur's call for inputs<sup>5</sup> and the impact of the earthquake on the affordability of housing.

## **I. Legal Framework on the Right to Housing after Earthquakes**

The extent to which the obligation to provide accessible and affordable housing for all without discrimination is reflected in legal regulations in Turkey will be assessed in the context of international human rights conventions to which Turkey is a party, the Constitution of the Republic of Turkey, and domestic legal regulations, and the right to housing of disaster survivors, as well as the affordability problem in access to housing, will be specifically addressed.



## **a.** *Protection Provided by International Human Rights Mechanisms*

International human rights conventions to which Turkey is a party, such as the Universal Declaration of Human Rights<sup>6</sup> and the International Covenant on Economic, Social, and Cultural Rights<sup>7</sup> guarantee the right of everyone to adequate housing conditions. Turkey is also a party to the European Convention on Human Rights, which protects the right to respect for home and right to property.<sup>8</sup>

Among the international human rights treaties ratified by Turkey which recognizes the right to adequate housing are the 1951 Convention Relating to the Status of Refugees, (art. 21), the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (art. 5/e/iii), the 1966 International Covenant on Civil and Political Rights (art. 17), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (arts. 14/2 and 15/2), the 1989 Convention on the Rights of the Child (arts. 16/1) and 27/3), the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 43/1/d), the 2006 Convention on the Rights of Persons with Disabilities (arts. 9 and 28), the European Convention on the Legal Status of Migrant Workers (1977) and the European Social Charter (1996).<sup>9</sup>

*6 United Nations Universal Declaration of Human Rights, Article 25: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family; this right including food, clothing, housing, (...).*

*7 Article 11- 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 food, clothing and housing, and to the continuous improvement of living conditions.*

*8 Article 8 of the European Convention on Human Rights protects individuals against interference by public authorities and requires the State to take measures to ensure the right to respect for one's home. (See Novoseletskiy v. Ukraine, para.68, Surugju v. Romania, para.59, European Court of Human Rights).*

*9 Pursuant to Article 90 of the Constitution, the provisions of international conventions on fundamental rights and freedoms duly put into force and international conventions shall prevail in disputes that may arise due to the fact that the laws contain different provisions on the same subject.*

10 There is no recourse mechanism in relation to the Convention relating to the Legal Status of Refugees.

11 Turkey is not a party to the Optional Protocol to the European Social Charter, which provides for a system of collective grievance mechanism. Turkey has not recognized the competence of the Committee on the Elimination of Racial Discrimination to receive and examine individual applications.

12 By becoming a party to the Optional Protocols providing for individual and intergovernmental application procedures, Turkey has recognized the jurisdiction of the Human Rights Committee and the Committee on the Rights of the Child to receive and examine individual and intergovernmental applications, the Rights of Persons with Disabilities to receive and examine individual and group applications, and the Committee on the Elimination of Discrimination against Women to receive and examine individual applications. However, the relevant committees do not have a decision on the right to housing for Turkey.

There are individual and intergovernmental application mechanisms for alleged violations of rights with respect to certain of the conventions listed above for monitoring the implementation of these international human rights conventions by the State Parties.<sup>10</sup> Turkey is not a party to some of the optional protocols that provide access to these mechanisms for individuals and groups of individuals claiming violations of rights.<sup>11</sup> The mechanisms to which it is a party have not yet ruled on a complaint against Turkey on the right to housing.<sup>12</sup> When the Government reports to the relevant Committees and the Committees' concluding observations are considered, it is possible to arrive at findings that demonstrate the right to access to housing. However, it is not possible to say that there are already established mechanisms enabling survivors of the earthquake to directly demand the right to housing in accordance with the criteria of the relevant conventions and that a national legal framework has been developed in a way that reflects the rules of international human rights law.





## *European Court of Human Rights*

Among the international authorities with jurisdiction over the review of international human rights treaties to which Turkey is a party, the European Court of Human Rights has the most extensive case law on Turkey. Although the affordability of housing is not directly covered by the ECHR, Article 8 of the Convention protects the right to respect for home and Article 1 of Protocol 1 to the Convention protects the right to property.<sup>13</sup>

These two rights, which are indirectly related to the right to housing, provide certain guarantees, especially in cases of displacement arising from conflict or disasters, as well as eviction and occupation of housing.

The part of the ECtHR's jurisprudence in Turkey related to access to housing consists mainly of judgments concerning the actions of security forces in evacuating houses in conflict zones, the destruction of houses, or the abandonment of houses for security reasons.<sup>14</sup> In many of these decisions, the right to respect for home was found to have been violated.<sup>15</sup>

<sup>13</sup> However, Article 8 of the ECHR does not recognize the right to be provided with a home, but rather guarantees the right to respect for home, including the right to enjoy it in peace. (*Chapman v. the United Kingdom*, para. 99) cannot be interpreted (*Garib v. the Netherlands*, para. 141).

<sup>14</sup> *Ağtas v. Turkey*, 33240/96, *Öztoprak and Others v. Turkey* 33247/96, *Sophia Andreou v. Turkey* 18360/91, *Kyriakou v. Turkey* 18407/91, *Artun and Others v. Turkey* 33239/96, *Kumru Yılmaz and Others v. Turkey* 36211/97, *Loizou and Others v. Turkey*, *Akdivar and Others v. Turkey* 21893/93, 16/09/1996

<sup>15</sup> *Selçuk and Asker v. Turkey*, para.86; *Akdivar and Others v. Turkey*, para.88; *Menteş and Others v. Turkey*, para.73



The ECtHR found in *Amato v. Turkey* that the administration's demolition of a home in a disaster zone without notifying the applicant and without providing compensation violated the applicant's right to property.<sup>16</sup>

There is a link between the ECtHR's judgments on natural disasters and its judgments on hazardous activities that are human activities. Since there is an important link between the damage caused by unavoidable natural disasters and damage of human activities, it is possible to state that there are many similarities between dangerous activities, which are entirely artificial, and natural disasters in terms of the resulting liabilities. *Öneryıldız v. Turkey* decision, which the ECtHR frequently cites in earthquake-related rulings, relates the loss of life and property damage caused by a methane gas explosion at a municipal landfill. The Court found a violation of the applicant's right to property by establishing a causal link between the administrative authorities' negligence and the destruction of the applicant's home. It was decided that the sale of a flat to the applicant whose home had been destroyed on favorable conditions did not fully compensate for the effects of the negligence identified.<sup>17</sup>

<sup>16</sup> <https://hudoc.echr.coe.int/fr/?i=001-80388he>  
Committee on

<sup>17</sup> In *Kursun v. Turkey* (22677/10, 30/10/2018), although it was held, as in *Budayeva and Others v. Russia*, 15339/02 and *Kolyadenko and Others v. Russia*, 17423/05, in a situation where lives and property were lost as a result of a dangerous activity occurring under the responsibility of the public authorities, the scope of measures required for the protection of dwellings was indistinguishable from the scope of those to be taken in order to protect the lives of the residents, an inadmissibility decision was issued in terms of the right to property.

Although the ECHR protects housing, it does not regulate the acquisition of housing. Also States have no obligation under the ECHR, including in the specific case of earthquakes, to ensure that housing is accessible and affordable.<sup>18</sup> In many cases, the ECtHR has examined the measures to be taken before and after a natural disaster.<sup>19</sup> However, there is no ruling in which the Court has found that the state has an obligation to provide accommodation or accommodation assistance to disaster survivors.<sup>20</sup>

Even though the prohibition on discrimination enshrined in Article 14 of the ECHR does not provide a universal right to housing for all, it does guarantee non-discrimination in the application of domestic law rules that provide certain facilities for access to housing, as discussed in detail below.<sup>21</sup>



18 Eviction from the dwelling may result in a breach in certain cases. For instance, *Yordanova and Others v. Bulgaria* (25446/06, 24.04.2012) concerns a plan to evict Roma from their long-standing settlements without alternative housing arrangements. The Court held that the eviction would constitute a violation of Article 8 of the Convention on the grounds that the national authorities had failed to take into account the applicants' underprivileged status and had failed to provide reasons why their eviction was necessary, in particular in the absence of alternative housing which would have rendered them homeless.

19 Examples of measures to be implemented before a disaster include clearing the river bed against flooding, ensuring that stricter construction rules are followed in the disaster area or in an area at risk of landslides, installing warning systems, setting up observation points to monitor disaster risk, and informing people at risk. Organizing disaster relief and rescue, evacuating the houses in the disaster area, taking the disaster survivors to a safe place, providing their treatment can be given as examples to measures that can be implemented after a disaster.

20 In *Budayeva and Others v. Russia* although the ECtHR found that the state's negligence aggravated the damage caused by the natural disaster, it ruled that there was no violation of the right to property since the positive obligation on the state to protect private property from natural disasters cannot be construed as binding the state to compensate the full market value of destroyed property, taking into account the fact that the applicants were provided with accommodation, the disaster relief was direct and automatic, did not involve a contentious procedure or a need to prove the actual losses and did not impose a disproportionate burden on the applicants.

21 For instance, in *Larkos v. Cyprus*, the Court found that tenants renting state-owned immovable property were disadvantaged in terms of eviction compared to tenants of private owners, in violation of Article 14 in conjunction with Article 8. In *Bah v. the United Kingdom*, the Court examined whether there was discrimination in the conditions of access to social housing as defined in domestic law, and in *Karner v. Austria*, the Court found admissible a claim of discrimination by a same-sex couple in relation to the right to transfer a tenancy within the same-sex couple.

22 Question 1: Does your country's national law, including constitutional, housing or social protection law, refer to affordability of housing or provide any other guarantees to ensure a minimum standard of living? Or in its absence, are there national policies that refer to affordable housing or minimum standard of living? Please provide references and links to the respective key laws or constitutional provisions as well as policies. Question 3: Please share any important court decisions in your country that relate to the issue of affordable housing or enjoyment of a minimum standard of living, including important judgements on State policies or measures aimed at ensuring housing affordability.

23 Article 10 of the Constitution: Equality before the law: All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations.

24 These decisions include decisions on the disposals of family dwellings, and decisions on the impact of private facilities on the right to housing due to their environmental impact. *Emine Göksel*, 2016/10454, 12/12/2019. *Ahmet Bileğin and Others*, 2015/11709, 12/12/2018. *Musa Abay and Hemşin Muhtars Association*, 2018/10117, 12/1/2022

## **b. Constitutional Protection**

*(Special Rapporteur's Questions 1 and 3<sup>22</sup>)*

Article 21 of the Constitution of the Republic of Turkey regulates the inviolability of domicile, and Article 57 on the right to housing stipulates that the State shall take measures to meet the need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects. Article 56, which is defined as the right to live in a healthy and balanced environment, is also linked to the right to housing in various ways.<sup>23</sup>

Although the expression "taking measures to meet the need for housing" in the text of Article 57 on the right to housing goes beyond the right to respect for home under Article 8 of the ECHR explained above in terms of ensuring access to affordable housing, it can be concluded that the decisions of the Constitutional Court are overwhelmingly related to the right to respect for home in line with the case-law of the ECtHR.<sup>24</sup>



We believe that the interpretation of Article 57 of the Constitution in the decisions of the Constitutional Court which does not go beyond the framework of Article 8 of the European Convention on Human Rights is related to the requirements for individual application to the Constitutional Court. According to the first paragraph of Article 45 of Law No. 6216 on the Establishment and Rules of Procedure of the Constitutional Court, for an individual application to be examined, the right that is alleged to have been violated must not only be guaranteed by the Constitution but must also be within the scope of the European Convention on Human Rights and the additional protocols thereto, to which Turkey is a party. Therefore, since the right of an applicant under Article 57 of the Constitution to seek measures for meeting his/her housing needs in a broad sense is not protected under the ECHR, individual applications to the Constitutional Court are also limited in terms of subject matter.

Exceptions to this are cases where domestic law defines eligibility for the right to be provided with housing in the aftermath of a disaster. In cases of eligibility for becoming a right-holder, arising from domestic laws, which will be explained in detail below in the section on legal protection, the Constitutional Court has examined interferences with legitimate expectations of property ownership within the scope of the right to property and the right to a fair trial.

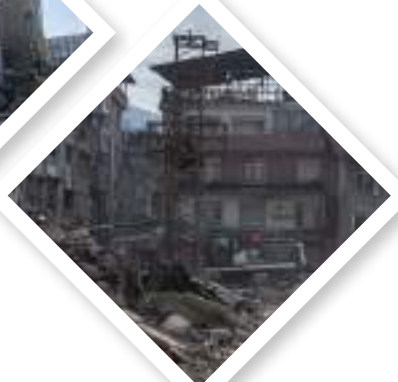
25 Müslim Şentürk,  
2014/4930, 21/6/2017,  
Mehmet Şentürk,  
2014/13478, 25/7/2017

26 Pursuant to the Regulation  
on Determination of the  
Right Holders due to  
Disaster, the right holder  
refers to the ownership  
relationship of the disaster  
survivors with the  
destroyed or severely  
damaged buildings and  
their eligibility to benefit  
from the buildings to be  
rebuilt or construction  
loans to be granted

27 Sedat Şanlı, 2018/6812,  
3/7/2019, Mehmet  
Harman, 2017/34154,  
3/7/2019

For instance, in its Müslim Şentürk<sup>25</sup> judgement, the Constitutional Court found that the right to a fair trial was violated in the proceedings concerning the revocation of the right-holder status of the applicant<sup>26</sup> who lost his home due to the earthquake and met the legal requirements for the provision of new housing under Law No. 7269.

In its Sedat Şanlı judgement<sup>27</sup>, which the Constitutional Court referred to in many of its decisions, it found that the right to property was violated due to the fact that the applicant, who was a right holder under Law No. 7269, was not allocated permanent housing after he was allocated prefabricated housing because of the earthquake.



In conclusion, notwithstanding Article 57 of the Constitution, requests for the provision of accessible and affordable housing do not enjoy direct protection in practice unless they are based on a domestic legal provision defining such a right. However, in some cases, particularly in cases of access to housing in the event of natural disasters, which are protected under the applicable law, the legitimate expectations of the applicants are protected under the right to property.

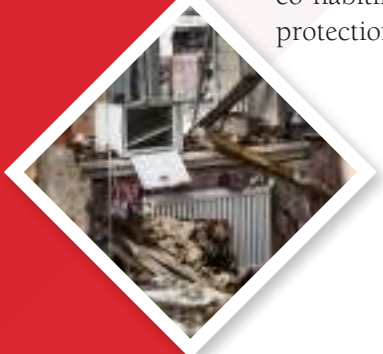
## C. Legal Protection

In domestic law, there are regulations on the provision of temporary or permanent housing to persons who have become homeless or whose houses have become unusable as a result of disasters.

According to Article 13 of Law No. 7269 on Measures to be Implemented and Assistance to be Provided in Case of Disasters Affecting Public Life, the administration may construct, rent, or buy shelters and houses in order to provide temporary housing for those affected by disasters. Although the concept of "being a right-holder" is also regulated in the law, this term does not cover the entitlement to the right to housing.<sup>28</sup> Article 29 of the Law provides that "households living in buildings that have been destroyed, burned or severely damaged or are likely to be damaged, or in buildings in places where expropriation is compulsory in accordance with zoning plans, are provided with housing or loans, if they qualify as right-holders".<sup>29</sup> Pursuant to the law, individuals do not qualify if there is another undamaged dwelling belonging to them or their spouse in the relevant location. Tenants and co-habiting descendants are also excluded from protection.

<sup>28</sup> Regulation on the Determination of the Right Holders Due to Disaster, Accessed on: 15.04.2023

<sup>29</sup> Law No. 7269 on Measures to be Taken and Assistance to be Provided Due to Disasters Affecting Public Life, Date of Acceptance: 15/5/1959, Accessed on: 15.04.2023022





Article 29 of Law No. 7269, which provides housing or loans for disaster survivors, who have become homeless, guarantees limited access to housing. The acquisition of the right-holder status is subject to certain formal and temporal conditions and therefore does not have absolute operability. As can be seen in the above-mentioned Constitutional Court decisions, there are certain circumstances in which persons with the status of a right holder cannot access housing. Law No. 7269 does not include a regulation on the affordability of housing or any criteria for preventing discrimination.

However, it is still possible to say that this article, which came into force with the decree law issued after the 7.8 Mw earthquake in 1999, is of key importance for disaster survivors' access to housing.





Law No. 6306 on the Transformation of Areas under Disaster Risk, commonly known as the Urban Transformation Law, regulates the rules for creating healthy and safe living environments in areas under disaster risk and places with risky buildings other than these areas.<sup>30</sup> The Law provides that the owners of risky buildings demolished as a result of an agreement with the administration and those who use these buildings may be allocated temporary housing or receive rental assistance under specific conditions.<sup>31</sup> The Law contains certain provisions on interest support for loans obtained from banks for housing to be built as part of transformation activities.<sup>32</sup>

<sup>30</sup> Implementation Regulation of Law No. 6306, Official Gazette Date: 15.12.2012 Official Gazette No: 28498

<sup>31</sup> Law No. 6306 on the Transformation of Areas under Disaster Risk, Article 5/1.

<sup>32</sup> Law No. 6306 on the Transformation of Areas under Disaster Risk, Article 7/6.

## II. February 2023 Earthquakes and Access to Housing

Following the earthquake, a major housing problem emerged in the earthquake zone and in other provinces where those who were affected by the earthquake had to migrate. Over 1 million 728 thousand buildings were inspected as part of damage assessment activities after the earthquakes, and more than 227,027 homes and businesses were found to have been destroyed or severely damaged, according to official statistics dated 5 March 2023.<sup>33</sup> In other words, approximately 13% of the inspected buildings became unusable after the earthquakes.<sup>34</sup> A total of 14 million people lived in the 11 provinces affected by the 6 February 2023 earthquakes.<sup>35</sup> It was determined that approximately 2 million 273 thousand 551 people needed housing after the earthquakes.<sup>36</sup>



33 Minister Kurum announces the number of demolished buildings, Accessed on: 15.04.2023

34 Although current data on the number of medium-damaged buildings that have become unusable is not available, it is estimated that this rate increases with the number of medium-damaged buildings.

35 The average household size in the 10 provinces and 113 districts affected by the earthquake is 3.96. The population aged 0-14 and 65 and over in the region is higher than the population aged 15-64, and while the average age dependency ratio in Turkey was 47.7% in 2020, it is around 60% in the region. 6 February 2023 Earthquakes Preliminary Investigation Report, 21.02.2023, Istanbul Technical University, Accessed on: 15.04.2023

36 <https://www.sbb.gov.tr/wp-content/uploads/2023/03/2023-Kahramanmaraş-and-Hatay-Earthquakes-Report.pdf>, <https://www.duvarenGLISH.com/over-2-million-quake-victims-live-in-tents-in-turkey-afad-head-announces-news-62062>, <https://www.reuters.com/world/middle-east/turkey-is-sues-earthquake-rebuilding-rules-after-millions-left-homeless-2023-02-24/>, Accessed on: 15.04.2023

37 Burcu Aydın Özüdoğru, Economic Policy Research Foundation of Turkey, *Impacts of the 2023 Kahramanmaraş earthquake and policy recommendations*, Accessed on: 25.04.2023



The number of independent units rendered unusable after the earthquake is higher than the number of independent units that were given occupancy permits across Turkey in 2022. The immense destruction caused by the earthquake, combined with Turkey's construction capabilities and development needs, suggests that the region's reconstruction will take at least 5 years and will require approximately \$150 billion in resources.<sup>37</sup>

38 Turkish Medical Association, *Month II, Earthquake Report, Temporary Settlement Sites, 1-31 March 2023, 2 million migrates from the earthquake zone*, <https://www.reuters.com/world/middle-east/turkey-issues-earthquake-rebuilding-rules-after-millions-left-homeless-2023-02-24/>, Accessed on: 25.04.2023

39 Mersin Metropolitan Municipality Provides Shelter to 7,500 Earthquake Survivors, *Ankhaber.net*, Accessed on: 15.04.2023

## ***a.*** *Housing Conditions After Disaster*

Although there are different estimates on the numbers, it is estimated that around 2 million people migrated and around 800 thousand people moved to rural areas in the earthquake zone due to the crisis of access to housing and basic needs in the aftermath of the earthquake.<sup>38</sup>

For those who had to leave the region after the earthquake, the municipalities of neighboring provinces provided temporary accommodation to the extent of their capacity.<sup>39</sup>

Temporary settlements consisting of tents and containers have been established to temporarily solve the problem of shelter in the earthquake zone.<sup>40</sup> According to Ministry of Interior figures, two months after the earthquake, as of 05.04.2023, a total of 2,796,589 people were living in 345 tent cities and 305 container cities set up for earthquake survivors. It is not known whether this number includes those who set up tents or containers on their own or through relief aid.<sup>41</sup> It is assumed that half of the approximately 520 thousand households estimated to be residing in buildings rendered unusable after the earthquake will live in tents and container cities until they have access to permanent housing.<sup>42</sup> There is also a proportion of the population that remains in the earthquake zone but does not go to temporary shelters due to fears of permanent displacement.

Several problems are observed in temporary settlements. The ground characteristics of the temporary settlement sites where tents are set up, the proximity of the tents to each other, the heating facilities causing fire risk, limited access to drinking water, inadequate toilet, bathroom, and laundry facilities, and the lack of a waste disposal system have caused many problems.<sup>43</sup> The dumping of the rubble of buildings damaged in the earthquake, which may contain toxic waste, in areas close to settlements and temporary settlement sites adversely affected housing conditions and triggered social reactions.<sup>44</sup>

40 The Turkish Ministry of Interior Disaster and Emergency Management Presidency (AFAD) is the sole authority for disaster management and coordination in Turkey. The duties and authorities of AFAD regarding the setting up of tents and containers, identification of the places where they will be set up, and ensuring coordination are set out in Articles 30 to 56 of the Presidential Decree No.4 on the Organizations of Institutions and Organizations Affiliated, Related and Associated to Ministries and Other Institutions and Organizations published on 15/07/2018.

41 In addition to tents used for shelter, containers are also used in the earthquake zone for the same need. Containers are small modular structures with preassembled rooms, kitchens, toilets, and bathrooms. In the provinces affected by the earthquake, container cities were established by placing these containers side by side. <https://twitter.com/suleymansoylu/status/1642105582525075457?context=HHwWgsC-ofeU98rtAAAA> <https://www.aa.com.tr/tr/as-rin-felaketi/deprem-bolgele-erinde-345-cadir-kent-ve-305-konteyner-kent-kuruldu/2864152>, <https://amu.tv/en/37148/>, Accessed on: 15.04.2023

42 Ibid. See Footnote 37.

43 Turkish Medical Association, Month II, Earthquake Report, Temporary Settlement Areas, March 1-31, 2023, Accessed on: 15.04.2023

44 <https://www.evrensel.net/haber/485816/saman-dag-hal-ki-cadirkent-in-yanina-moloz-doken-kamyonlarin-onunu-resti>, <https://www.duvarenglish.com/earthquake-victims-in-turkeys-hatay-protest-dumping-rubble-near-tent-city-news-62148>, Accessed on: 15.04.2023

45 6 February 2023 Kahramanmaraş - Pazarcık and Elbistan Earthquakes Preliminary Observation Report. Between 11-14 February 2023, a civil society delegation composed of representatives of the Association for Civil Society in the Penal Execution System, Association for Monitoring Equal Rights, FISA Child Rights Center, Truth Justice Memory Center, Association for Access to Fair Trial, Citizens Assembly, Capacity Development Association and independent experts made an observation visit to the provinces of Adana, Adiyaman, Hatay, Gaziantep, Kahramanmaraş, Malatya, Osmaniye, Şanlıurfa and the districts of Elbistan, Iskenderun, Kırıkhan, Samandağ, and Iskenderun, which were affected by the earthquake centered in Kahramanmaraş Pazarcık and Elbistan on 6 February 2023. <https://hakikatadalethafiza.org/wp-content/uploads/2023/03/6-S%CC%A7ubat-2023-Kahramanmaraş%CC%A7Pazarcık-ve-Elbistan-De-premleri-O%C-%88n-Go%CC%88zlem-Raporu.pdf>

46 According to the statement of the Ministry of Health dated 14 March 2023, a total of 146,806 personnel, including 15,706 National Medical Rescue Team (UMKE) and Emergency Assistance personnel and 18,097 physicians and 113,003 healthcare personnel in healthcare facilities, are working in this area. However, it is also known that there are problems in access to health care due to the presence of health institutions and organizations physically damaged by the earthquake. [https://haberler.itu.edu.tr/docs/default-source/default-document-library/2023\\_itu\\_deprem\\_on\\_raporu.pdf?sfvrsn=77afe59e\\_4](https://haberler.itu.edu.tr/docs/default-source/default-document-library/2023_itu_deprem_on_raporu.pdf?sfvrsn=77afe59e_4), Accessed on: 15.04.2023 Ibid. See Footnote 43.

47 One month on from the deadly earthquakes that hit Turkey and Syria, more than 850,000 children remain displaced. <https://www.unicef.org/turkiye/en/press-releases/one-month-more-850000-children-remain-displaced-deadly-earthquakes-southern-t%C3%BCrkiye>, Accessed on: 25.04.2023

In the preliminary observation report<sup>45</sup> prepared by human rights organizations that visited the earthquake zone, it was stated that temporary housing sites were not set up rapidly, no records were maintained at these sites, a general mobilization of relief was carried out by ignoring the needs and demands of groups with different needs based on age, gender, disability, etc., winter tents were not provided and the flooring of tents was not taken into consideration within the framework of the need for temporary housing. It was also stated that safe means of heating, fuel, and various foods could not be provided, infant formula for babies, sanitary napkins for girls and women could not be met regularly and continuously, adult diapers, tent insulation, blankets, mattresses, children's areas and play sets, books, and common area tents were among the priority needs, and that regular health and psychosocial spaces specific to age groups should be established in temporary shelters.

The fact that millions of people's houses are now uninhabitable, that people have been displaced within the country, and that those who have not been displaced have had to take shelter in temporary settlement sites in their provinces has adversely affected primary health care services.<sup>46</sup>

The United Nations Children's Fund (UNICEF) reports that in the aftermath of the earthquake, more than 1.9 million people in Turkey remained in temporary settlements in earthquake-affected areas with limited access to basic services such as water, sanitation, and medical care.<sup>47</sup>

## b. Policies and Practices for the Housing Needs after Disasters

According to the United Nations High Commissioner for Refugees, there are four main post-disaster shelter solutions. These solutions include tents and plastic sheeting, containers<sup>48</sup>, prefabricated structures, and the provision of affordable rental facilities.<sup>49</sup>

Current state policies indicate that the first two of these solutions are predominantly preferred and that rent subsidies do not have a sustainable economic return.<sup>50</sup> It is understood that earthquake survivors outside the temporary settlement sites are trying to find their solutions.

According to the findings of civil society organizations, there has been discrimination by the authorities in the distribution of basic needs, in the selection of locations, in prioritization, and in the identification of individuals, segments, and groups to whom distribution should be made. In the regions where Kurdish, Alevi, Arab, Roma, Dom, and Abdal people reside, it has been determined that they either benefited from the support late or not at all, and that a disaster policy is not implemented for the needs specific to children, women, LGBTI+, disabled, young and elderly people.<sup>51</sup>



48 In order to encourage the production of containers and to provide housing at lower prices, the Value Added Tax rate to be charged by the state on the delivery and sale of prefabricated buildings and containers was reduced to 1%. <https://www.resmigazete.gov.tr/eskiler/2023/02/20230223-14.pdf>, Accessed on: 15.04.2023 49 Cihat Baluken Economic Policy Research Foundation of Turkey, What Does the Literature Say For Post- Earthquake Shelter Solutions? Accessed on: 15.04.2023

50 It is announced that fifteen thousand liras of relocation and rent assistance between two thousand and five thousand liras will be provided to families whose homes had become uninhabitable and that ten thousand liras of assistance will be provided per household. <https://twitter.com/AFADBaskanlik/status/1627274833573576706>, <https://www.cumhuriyet.com.tr/siyaset/chpli-vekil-suzan-sahin-deprem-bolgesinde-ramazan-nedeniyle-ogun-sayisi-2ye-dusuruldu-2067697>, Accessed on: 15.04.2023

51 6 February 2023 Kahramanmaraş - Pazarcık and Elbistan Earthquakes Preliminary Observation Report, See Footnote 46, <https://www.evrensel.net/haber/486661/sesten-deprem-bolgesine-dair-gozlem-raporu-pazarcikla-ayrimci-uygulamalar-yasandi>, <http://www.eric.org/news/romani-domari-and-abdal-earthquake-victims-face-discrimination-and-hate-crimes-in-turkey>, <https://www.euronews.com/2023/03/08/no-foreigners-discrimination-allegations-mar-turkeys-earthquake-response> Romani Godi, The Effects of the Kahramanmaraş, Earthquake on Roma Groups, <https://drive.google.com/file/d/14bt9DskstVpQVvDCwm6JtNWNHrM-pzW/view> <https://t24.com.tr/yazarlar/yildiz-tar-insan-manzaralari-depreme-katmerlenen-ayrimcilik-agzimi-yuzumu-kapatiyor-dim-trans-oldugumu-anlamasinlar-diye.38760>, <https://kaos-g1.org/en/single-news/trans-woman-earthquake-survivor-eee-their-anger-targets-you> <https://haber.sol.org.tr/haber/depreme-alevi-koylelerine-yardim-dagitilirken-ayrimcilik-yapildi-mi-367126>, <https://medyanews.net/turkeys-alevi-population-is-worried-of-being-displaced-as-a-result-of-earthquakes/>



52 On 10.02.2023, Murat Kurum, Minister of Environment, Urbanization and Climate Change of the Republic of Turkey, stated that mobilization for the disaster housing mobilization would begin in the affected cities, that they would ensure the construction of safe and robust housing, and that they gave urgency to the setting up of tent and container cities first. <https://csb.gov.tr/bakan-kurum-10-ilimizde-cumhuriyet-tarihinin-en-buyuk-afet-konut-seferberligini-baslatmis-olacagiz-bakanlik-faaliyetleri-38419>, Accessed on: 15.04.2023. The Ministry of Environment, Urbanization and Climate Change of the Republic of Turkey announced on 15.04.2023, 5 days after the earthquake, that the installation of 17,27 tents at 11 locations in Gaziantep province for the temporary accommodation of 80,000 citizens had been completed. <https://csb.gov.tr/bakan-kurum-afetzedekardeslerimizin-barinma-ihtiyaci-icin-de-canla-basla-calisiyoruz-bakanlik-faaliyetleri-38420> Süleyman Soylu, the Minister of Interior, announced on his Twitter account on 1.04.2023 that "the installation of 46,672 containers accommodating 76,862 people in 54 areas has been completed". Accessed on: 15.04.2023

53 In addition to tents and containers, the government has announced that work has started on the construction of permanent housing. Murat Kurum, the Minister of Environment, Urbanization and Climate Change, stated on 04.04.2023 that they have started the construction of 70 thousand houses in 11 provinces and that they would lay the foundations of 319 thousand houses within two months. <https://csb.gov.tr/bakan-murat-kurum-artik-afetin-55inci-gununde-70-bin-konutun-temellerini-atan-bir-turkiye-var-bakanlik-faaliyetleri-38525>, <https://www.duvaren-english.com/housing-tenders-in-earthquake-zone-mostly-awarded-to-companies-close-to-akp-news-62007> Accessed on: 15.04.2023

54 <https://www.resmigazete.gov.tr/eskiler/2023/03/20230321-11.htm>, Accessed on: 15.04.2023

55 <https://m.bianet.org/bianet/siyaset/275758-deprem-bahanesiyle-maliye-bakanina-sinirsiz-yetki-sunan-yeni-bir-fon-olusturuldu>

## Reconstruction

The general elections to be held in Turkey on 14 May 2023 shaped the politicians' preferences regarding the measures to be taken in the earthquake zone.<sup>52</sup> The promise to deliver permanent housing to earthquake survivors within a year and the announcement of plans and projects for housing construction by many political officials are among the key elements of the reconstruction discourse adopted by the government.<sup>53</sup>

Law No. 7441 on the Creation of the Disaster Reconstruction Fund was put into force for the use and organization of donations, aids, and grants received or to be received from home and abroad in order to provide resources for construction activities.<sup>54</sup> This law regulates the provision and transfer of resources required for reconstruction, infrastructure and superstructure works in disaster areas. This fund, which is a legal entity under the Ministry of Finance and Treasury, is authorized to use resources and all donations and grants related to the solution of the housing problem. This fund was criticized by MPs from opposition parties for allegedly allowing the government to transfer uncontrolled financial resources to the government.<sup>55</sup>

According to a report by the Presidential Strategy and Budget Directorate, 83,149 village houses will be built by the state in addition to the 405,505 houses planned in the earthquake zone.<sup>56</sup>

It is evident that extensive and rapid construction activities will generate long-term and irreversible issues in the absence of sufficient planning considering the impact of these activities on the cultural fabric, ecology, and public health of settlements located in earthquake zones. The dumping of construction rubble likely containing asbestos and cadmium near the Milleyha Bird Sanctuary, home to more than 280 bird species, and near temporary housing sites are notable examples in this regard.<sup>57</sup> All reconstruction works must be designed in an environmentally sustainable way, meets the requirements of the people in the earthquake zone, and protects multicultural urban structures.

<sup>56</sup> The construction cost of the planned 405,505 houses is estimated to be TL 608,3 billion (USD 32,2 billion) excluding land costs. The approximate cost of village houses has been estimated at TL 192,7 billion (USD 10,2 billion).

<sup>57</sup> <https://www.haberturk.com/-milleyha-kus-cen-neti-nin-100-metre-uzaginda-moloz-dagj-son-dakika-haberler-3582441>, <https://globalvoices.org/2023/04/06/the-rubble-after-turkeys-earthquake-may-have-a-disastrous-environmental-impact/>, <https://www.du-varenglish.com/protestors-detained-for-trying-to-prevent-uncontrolled-rubble-dumping-in-quake-zone-news-62155>, <https://www.milliyet.com.tr/gundem/milleyha-kus-cennetine-100-metre-uzaklikta-deprem-molozlari-dag-gibi-ol-du-6931279>, Accessed on: 15.04.2023







## *Housing assistance outside the temporary settlement site*

Apart from temporary settlement sites, 800 dormitories in 81 provinces run by the Ministry of Youth and Sports, where university students are accommodated, have been allocated for the use of earthquake survivors.<sup>61</sup> However, universities were closed and students were required to leave their dormitories, and many students who had previously received remote education due to the coronavirus pandemic had to return to remote education. The evacuation of student dormitories to provide housing has caused reactions.<sup>62</sup> In addition to student dormitories, public areas such as guesthouses, sports halls, and youth centers under the administration were also opened for the use of those affected by the earthquake.<sup>63</sup>



61 <https://gsb.gov.tr/haber-detay.html/971>, Accessed on: 15.04.2023

62 Opposition reacts to government's decision on Credit and Dormitories Agency and distance education, <https://artigercek.com/guncel/yurtlarindan-cikarilan-ogrencilerden-aciklama-ilk-vazgecilen-genclik-olamaz-238744h>, <https://globalvoices.org/2023/02/22/university-students-in-turkey-are-bearing-the-brunt-of-the-earthquake/>, <https://www.evrensel.net/haber/483896/depremzedeler-yerlestirilecek-diye-tahliye-edilmisti-ogrencilerin-cikarildi-gi-kyk-yurtlari-atil-durumda>, <https://www.gazeteduvar.com.tr/yurtlarda-ki-ogrenciler-zorlacikariliyor-esyalarimiz-kapiya-birakildi-haber-1603100>

63 <https://gsb.gov.tr/haber-detay.html/968>, Accessed on: 15.04.2023

64 369 mobile kitchens were set up by non-governmental organizations and public institutions in the earthquake zone to meet the need for food. In temporary settlement sites, food is mostly distributed through soup kitchens. Access to food is regarded as an even greater concern for individuals living in scattered, isolated tents near destroyed buildings or for rural earthquake survivors than for those in temporary settlement sites. With the arrival of Ramadan, it was noteworthy that some soup kitchens served only two meals. Presidency of the Republic of Turkey, Presidency of Strategy and Budget, 2023 Kahramanmaraş and Hatay Earthquakes Report, <https://www.cumhuriyet.com.tr/siyaset/ch-pi-vekil-suzan-sahin-deprem-bolgesinde-ramazan-nedeniyle-ogun-sayisi-2ye-dusuruldu-2067697>, Turkish Medical Association, Month II, Earthquake Report, Temporary Settlement Sites, March 1-31, 2023, Accessed on: 15.04.2023

65 Ibid. See Footnote 45.

66 Earthquake survivors are being hosted all over the country (aa.com.tr), Accessed on: 15.04.2023

67 <https://www.sivilsayfalar.org/2023/02/20/sivil-toplum-gucu-ve-cesitliligile-deprem-bolgesinde/>

In the March 2023 report published by the Presidential Strategy and Budget Directorate, it was stated that in addition to the above-mentioned facilities<sup>64</sup>, hostels, teachers' lodges, hotels, summer houses, and country cottages were also used across the country to meet the temporary housing and nutrition needs of citizens affected by the disaster.<sup>65</sup>

According to the Anadolu Agency, the official news agency, 1,116,040 earthquake survivors were accommodated in hotels, guesthouses, and dormitories affiliated with the Ministry of Youth and Sports, as well as with their relatives or volunteer families in the provinces they traveled to.<sup>66</sup>

After the disaster, non-governmental organizations and municipalities took the initiative and provided housing assistance in and outside the disaster area. In the post-earthquake period, many local and foreign non-governmental organizations provided housing support in various ways.<sup>67</sup>



Civil society organizations have been engaged in supplying tents, containers, and heating appliances, providing rental alternatives, placing earthquake survivors in temporary housing, and similar activities to address the need for housing. The sale of tents by a company belonging to the Turkish Red Crescent to the AHBAP platform, one of the most effective NGOs in the earthquake zone, has provoked heavy criticism.<sup>68</sup>



68 <https://www.gazeteduv-ar.com.tr/kizilay-depremin-ucun-cu-gunu-ahbapa-cadir-satmis-haber-1605595>, <https://twitter.com/ahbap/status/1629750499359465472?s=51>, <https://www.cumhuriyet.com.tr/cumhuriyet-daily/turkish-red-crescent-criticized-for-selling-tents-after-the-quake-2055925>, <https://www.cumhuriyet.com.tr/siyaset/deprem-telasin-da-kizilay-ahbapa-cadir-satt-i-2055423>. Accessed on: 15.04.2023

### III. *Housing Affordability* (Special Rapporteur's Questions 5 and 6<sup>69</sup>)

Domestic savings, which were used to meet the public sector's need for borrowing at high-interest rates in the 1990s, were directed partly to consumption and partly to alternative investment instruments as interest rates fell in the early 2000s, and housing became a serious investment option through government incentives. In terms of household economic habits in Turkey, commercial housing investment has been adopted as a financial instrument to address social security needs. Housing units are demanded not to meet the need for accommodation but for speculative gains from higher future sale prices.<sup>70</sup>

In recent years, the increasing interventions in the monetary policy and the suppression of the foreign currency exchange rate have led to a rapid increase in the demand for real estate, which has become a financial instrument in Turkey and around the world. Cyclical factors such as war, which led to internal migration, and the demand for housing by foreigners led to a significant increase in housing prices. The rise in construction costs has also led to a significant increase in house prices, especially in big cities.

<sup>69</sup> Question 5: Has housing affordability increased or decreased in your country over the past 10 years? In which regions or cities has housing affordability changed and for whom?  
Question 6: Please describe which households, persons or groups are at particular risk of being exposed to housing affordability in your country, region or city.

<sup>70</sup> <https://medyascope.tv/2023/02/18/on-er-guncavdi-yazdi-konut-piyasasinin-dinamikleri-ile-de-prem-gercegimizin-uyumul/>, Accessed on: 15.04.2023

Data from the Organization for Economic Co-operation and Development (OECD) shows that house prices in Turkey increased six-fold in nominal terms between 2015 and 2022, while house rents tripled between 2018 and 2022. OECD data shows that no country other than Turkey has seen such a high increase in nominal house prices, which increased to 8 times until the last quarter of 2022.<sup>71</sup>

The national income per capita in Turkey is estimated at TL 141,508 as of 2022.<sup>72</sup> On the other hand, Turkey has the second highest income inequality among EU countries.<sup>73</sup> The share of housing expenditures, including rent, in the budget of an average household in Turkey is around 15 percent, according to the Turkish Statistical Institute. This is followed by transportation, which also has the same share, and food, which is around 25 percent. These three expenditure items account for almost 50 percent of the household budget. In big cities, these figures are much higher.<sup>74</sup>

71 Organization for Economic Cooperation and Development (OECD), <https://data.oecd.org/price/housing-prices.htm>

72 GDP per capita below the level of 9 years ago, Accessed on: 15.04.2023

73 Turkey is the 4th country with the highest income inequality in the OECD, <https://m.bianet.org/english/labor/268362-ox-jam-report-turkiye-has-third-most-unequal-distribution-of-wealth-among-161-countries>, Accessed on: 25.04.2023

74 <https://medyascope.tv/2023/02/18/on-er-guncavdi-yazdi-konut-piyasasinin-dinamikleri-ile-de-prem-gercegimizin-uyumu/>, Accessed on: 15.04.2023



75 <http://ar-tium.hku.edu.tr/en/download/article-file/655826> Law No. 2985 on Collective Housing, <https://www.mevzuat.gov.tr/mevzuat-metin/1.5.2985.pdf>, Accessed on: 15.04.2022

76 Social housing, home ownership and tenancy statistics in Turkey and European countries, Accessed on: 15.04.2023

77 <https://www.sivilsay-jalar.org/2021/09/30/barin-amiyoruz-hareketi-cozum-kapsamli-ve-katili-mci-bir-genclik-politikasi/><https://www.dw.com/en/students-sleep-in-parks-to-protect-rising-rents-in-turkey/a-59386060>

78 <https://rm.coe.int/CoERM-PublicCommonSearchServices/DisplayDCT-MContent?documentId=0900016804928a5>, <https://rm.coe.int/rap-rcha-tur-15-2023/1680aac4f4>

In 1984, the Housing Development Administration (TOKİ) was established as a public institution to provide social housing and the infrastructure of necessary utilities for low and middle-income groups. The share of TOKİ's low-income housing does not exceed 25 percent of TOKİ's total production. Only a small proportion of the housing units produced within this ratio are for the "poor" group. As a result, TOKİ has become a market actor that sells the majority of the houses it builds to the middle and higher-income groups at a profit, while selling low-square-meter houses to the group defined as "poor" in the most social conditions by making them borrow at cost.<sup>75</sup>

According to data from the Turkish Statistical Institute, the homeownership rate in Turkey is steadily declining. The homeownership rate, which was 61.1 percent in 2014, dropped to 57.5 percent in 2021. This rate was 60.7 percent in 2006. In 2020 and 2021, 42 percent of the population were tenants.<sup>76</sup> In 2021, a movement of university students protesting against rising rents and lack of dormitories raised awareness about the right to housing.<sup>77</sup>

The European Committee of Social Rights has found that measures to reduce and prevent homelessness in Turkey are inadequate, that people under threat of eviction do not have adequate legal protection, and that the right to housing is not guaranteed.<sup>78</sup>



## **A.** *Impact of Earthquake on Housing Affordability*

It is estimated that the total burden of the earthquake on the Turkish economy is approximately 103.6 billion dollars. This volume is projected to reach approximately 9 percent of national income in 2023.<sup>79</sup> Therefore, in an already inflationary environment, the negative effects of an earthquake on housing affordability in Turkey seem inevitable for years to come.

After the earthquakes, migration movements to nearby provinces increased the demand for housing in these provinces. According to a report by the Human Rights and Equality Institution of Turkey, people trying to capitalize on the demand for housing have started to raise rents and sale prices.<sup>80</sup>

According to a study conducted in October 2022 on the extent to which the minimum wage covers the cost of housing and rents, the housing acquisition term is 9 years when the entire minimum wage is saved. Considering that housing costs, which had increased before the earthquake, increased rapidly after the earthquake, it can be concluded that the housing acquisition term has lengthened.<sup>81</sup>

<sup>79</sup> *Ibid.* See Footnote 45.

<sup>80</sup> <https://www.tihck.gov.tr/kategori/pages/pdf/k49u7p.pdf> [4] [5], [6] [7] Legal action taken against the landlord who demanded exorbitant rent from earthquake survivors in Tokat.

Following the earthquake on 06.02.2023, there was a general upward trend in rental prices across the country, especially in Ankara and Mersin, where rental prices increased by approximately 70-75% in one month, and by approximately 50% in Muğla. Accessed on: 15.04.2023

<sup>81</sup> <https://betam.bahcesehir.edu.tr/wp-content/uploads/2022/10/ArastirmaNotu263.pdf>3



## *IV. Conclusion*

International human rights conventions to which Turkey is a party guarantee the right of everyone to adequate housing conditions. However, there are no established mechanisms enabling survivors of post-earthquake disasters to directly demand the right to housing in accordance with the relevant convention standards, nor is there a national legal framework that reflects the rules of international human rights law. Therefore, laws must be amended to provide an effective protection mechanism to ensure the protection of the right to housing in conformity with the Turkish Constitution and international conventions on human rights to which Turkey is a party.



Housing loans and housing provided under Law No. 7269 provide a guarantee for access to housing, provided that they are granted under conditions that meet the criteria for the right to housing. Yet, since the applicable law does not classify everyone who lacks access to the right to housing as a right holder, the protection provided by the law remains limited.

The February 2023 earthquakes caused a huge housing crisis in Turkey, and the problem of access to housing, which existed before the earthquakes, became one of the country's main challenges following the earthquakes. Turkey's construction capacity and development needs indicate that the reconstruction of the earthquake zone will take years and that the conditions in temporary housing sites result in many human rights violations.

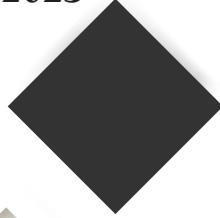
Preventing violations and providing remedies for those that do occur depends on monitoring and making violations of the right to housing evident, ensuring that they are reflected in the legislative process through advocacy, and ensuring that regulations are implemented properly.





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