

AN EXAMINATION OF THE RIGHT TO SHELTER IN NIGERIA AND SELECTED JURISDICTIONS: CHALLENGES AND PROSPECTS

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Abstract

This paper examines how Nigerian law protects the right to shelter and compares it with China's and Rwanda's approaches. Utilising doctrinal and comparative methods, it studies the 1999 Constitution (as amended), the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, the Land Use Act, the International Covenant on Economic, Social and Cultural Rights, and relevant judicial and quasi-judicial decisions, alongside the constitutional expropriation and housing regimes of China and Rwanda. Grounded in capability approach and right to city theory, it finds that shelter in Nigeria remains a non-justiciable principle under section 16(2)(d) of the Constitution, so protection comes only indirectly, through the rights to life and dignity and the African Charter. The chief difficulties are forced evictions without notice, compensation or resettlement, the Governor's wide revocation powers under the Land Use Act, a housing deficit officially put at about 115 million units, and weak enforcement of judgements. China shows the value of large-scale state housing delivery and of statutory rules requiring compensation before demolition, though housing is not judicially

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enforceable there as a right. Rwanda shows how law can embed fair, prior compensation and planned relocation, though valuation disputes persist. The paper recommends legislation to give effect to section 16(2)(d), a statutory code against forced eviction, reform of compensation under the Land Use Act and sustained public investment in housing finance.

Keywords: Right to shelter, Adequate Housing, Forced Eviction, Justiciability, Land Use Act, Comparative Law

1.0 INTRODUCTION

Shelter is among the most basic of human needs. A home offers security, privacy and protection from the weather, and is the base from which people earn a living, raise families and join community life. International human rights law accordingly recognises everyone's right to an adequate standard of living, adequate housing included.¹ Nigeria became part of the International Covenant on Economic, Social and Cultural Rights in 1993, and its Constitution directs the State to see that suitable and adequate shelter is provided for every citizen.²

Reality falls far short of this. In 2025, a technical committee of the Federal Ministry of Housing and Urban Development put the national housing deficit at about 14.9 million units, ending years of unverified estimates.³ After her 2019 visit, the United Nations Special Rapporteur

¹ Universal Declaration of Human Rights 1948, Article 25(1); International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR), Article 11(1.)

² Constitution of the Federal Republic of Nigeria 1999 (as amended) (CFRN), s 16(2)(d).

³ Federal Ministry of Information and National Orientation, 'FG's Technical Committee Releases New Housing Data, Pegs Deficit at 15 million Units' (26 January 2026) <https://fmino.gov.ng/fgs-technical-committee-releases-new-housing-data-pegs-deficit-at-15-million-units/> accessed 19 October 2026.

on adequate housing described conditions in parts of the country as inhumane and insufferable.⁴ Forced evictions continue: in January 2026, demolitions in the Makoko waterfront community of Lagos reportedly displaced over 9,000 people.⁵

The legal difficulty is that the shelter obligation sits in Chapter II of the Constitution, whose provisions are declared non-justiciable.⁶ A citizen cannot sue the State merely for lacking shelter. This paper asks how far Nigerian law protects the right to shelter despite that limitation, and compares Nigeria with China, a non-African State with a large state-led housing programme, and Rwanda, an African State that has quickly reformed its land and expropriation law. The choice is deliberate: like Nigeria, neither treats housing as a free-standing justiciable right, yet both have built detailed statutory regimes on expropriation, compensation and resettlement. They allow a test of whether Nigeria's problem lies only in non-justiciability or also in missing legislation and institutions. The paper combines the doctrinal method with the comparative method and addresses three questions:

- a. What legal and institutional framework governs the right to shelter in Nigeria, and how have courts and quasi-judicial bodies protected it?
- b. What are the main obstacles to realising the right to shelter in Nigeria?
- c. What can Nigeria learn from the legal frameworks and practices of China and Rwanda?

⁴ Leilani Faarha, 'Visit to Nigeria: Report of the Special Rapporteur on Adequate Housing' (3 January 2020) UN Doc A/HRC/43/43/Add.1, paras 3 and 31 https://www.ecoi.net/en/file/local/2023649/A_HRC_43_43_Add.1_E.pdf accessed 19 October 2026.

⁵ Victor Gbonegun, 'Makoko Demolition: Residents, Rights Groups Protest Eviction, Seek Relief, Resettlement' *The Guardian* (29 January 2026) <https://guardian.ng/news/nigeria/metro/makoko-demolition-residents-rights-groups-protest-evictions-seek-relief-resettlement/> accessed 19 October 2026.

⁶ CFRN 1999, Section 6(6)(c).

2.0 CONCEPTUAL CLARIFICATION

i. Shelter and Adequate Housing

In its narrow sense, shelter means a structure that keeps out the elements. The Committee on Economic, Social and Cultural Rights has rejected that reading, holding that the right to housing means more than a roof overhead: it is the right to live somewhere in security, peace and dignity⁷ legal security of tenure, availability of services, materials, facilities and infrastructure; affordability, habitability, accessibility, location; and cultural adequacy.⁸ Here, “right to shelter” bears the sense of the Constitution’s phrase “suitable and adequate shelter”, taken as equivalent to the right of adequate housing in international law.

ii. Forced Eviction

Forced eviction is the permanent or temporary removal of individuals, families or communities, against their will, from the homes or land they occupy, without appropriate legal or other protection or access to it.⁹ Not every eviction is unlawful, but it must observe safeguards such as genuine consultation, adequate notice, legal remedies and compensation, and must not leave people homeless.¹⁰

iii. Informal Settlement

An informal settlement is a residential area whose occupants lack a legal claim to the land or occupy it without formal planning approval, and where housing frequently falls below planning and building

⁷ Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No 4: The Right to Adequate Housing (Art 11(1))’ (1991) UN Doc E/1992/23, para 7.

⁸ *ibid.* para 8.

⁹ CESCR, ‘General Comment No 7: The Right to Adequate Housing (Art 11(1)): Forced Evictions’ (1997) UN Doc E/1998/22. para 3.

¹⁰ *ibid.*, paras 15-16; Special Rapporteur on Adequate Housing, ‘Basic Principles and Guidelines on Development-based Evictions and Displacement’ (2007) UN Doc A/HRC/4/18, annex I.

standards and lacks basic services.¹¹ Such settlements house most of Nigeria's urban poor and are the main targets of forced evictions. Residents are often labelled squatters, yet the human rights framework accepts that informal occupiers are also entitled to some security of tenure and to protection from eviction without due process.¹²

iv. Justiciability

Justiciability is the capacity of a right to be enforced by a court. Under Nigerian constitutional law, the fundamental objectives and directive principles in Chapter II are expressly excluded from judicial enforcement, whereas the fundamental rights in Chapter IV can be enforced through the courts.¹³

v. Expropriation

Expropriation, or compulsory acquisition, is the State's taking of private property or interests in land for a public purpose. In Nigeria it is allowed only in the manner prescribed by a law that provides for prompt compensation and access to court.¹⁴ Because most evictions in Nigeria, China and Rwanda arise from acquisition or urban redevelopment, expropriation law is where property law and the right to shelter meet.

3.0 THEORETICAL FRAMEWORK

i. The Capability Approach

The capability approach was developed by the economist and philosopher Amartya Sen, who argued that development should be judged by the real freedoms, or capabilities, people have to live lives

¹¹ Office of the United Nations High Commissioner for Human Rights and UN-Habitat, *The Right to Adequate Housing* (Fact Sheet No 21/Rev 1, United Nations 2009).

¹² CESCR, 'General Comment No 4' (n7) para 8(a).

¹³ CFRN 1999, Sections 6(6)(c) and 46.

¹⁴ CFRN 1999, Section 44(1).

they value, not by income or resources alone.¹⁵ Martha Nussbaum turned it into a list of central human capabilities, among them bodily health, which she defined as including adequate shelter, and control over one's material environment, including the ability to hold property.¹⁶ Critics say it lacks a clearer method for ranking and measuring capabilities, and Thomas Pogge argues it is harder to justify than resource-based theories of justice.¹⁷ Even so, it explains why shelter is more than a commodity: without secure housing, people lose the capabilities to stay healthy, work, educate their children, and take part in public life. Applied to Nigeria, it shifts the question from whether Section 16(2)(d) is enforceable to whether the State's laws and policies enlarge or shrink people's capability to be sheltered. A demolition that leaves a family homeless shrinks it, whatever its planning justification; an in-situ upgrade bringing water, sanitation and secure tenure enlarges it.

ii. The Right to the City Theory

This theory comes from the French philosopher Henri Lefebvre, who argued that urban inhabitants have a right to help shape the city and to use urban space, not merely trade in it.¹⁸ David Harvey later described it as a collective right to change ourselves by changing the city, and criticised redevelopment that dispossesses the poor through what he called accumulation by dispossession.¹⁹ Critics find the concept vague, and Mark Purcell, though sympathetic, cautions that it cannot cure urban injustice unless its content and beneficiaries are clearly defined.

¹⁵ Amartya Sen, *Development as Freedom* (Oxford University Press 1999).

¹⁶ Martha C Nussbaum, *Creating Capabilities: The Human Development Approach* (Harvard University Press 2011).

¹⁷ Thomas Pogge, 'Can the Capability Approach Be Justified?' *Philosophical Topics* (2002) 30(2) 167.

¹⁸ Henri Lefebvre, *Le Droit à la ville* (Anthropos 1968).

¹⁹ David Harvey, 'The right to the City' *New Left Review* (2008) 53 23.

²⁰It nonetheless matters here, because the gravest violations of the right to shelter in Nigeria, China and Rwanda come from redevelopment that pushes low-income residents off well-located land, as in Lagos, where Otodo-Gbame and Makoko occupy valuable waterfront, and in Kigali, where planning has been used to remake the city. It complements the capability approach: the latter asks what individuals can do, the former who decides how urban space is used.

4.0 LITERATURE REVIEW

Chegwe, studying the right to housing in Nigeria law and practice, argues that although Nigeria has ratified instruments recognising adequate housing and its Constitution contains a policy commitment to shelter, the right goes unrealised and the urban poor often see the law as repressive, as the 2013 Badia East Evictions show.²¹ His criterion is a legal right that citizens can demand. The study establishes the gap between law and practice examined here, but does not compare Nigeria with other systems or consider reform of expropriation law.

Odinkalu, writing on economic, social and cultural rights under the African Charter, argues that the dispute over their justiciability has paralysed implementation and that the African Commission should develop their content through its decisions.²² His criterion is regional enforceability. His gap is domestic enforcement and non-compliance with regional decisions.

²⁰ Mark Purcell, 'Excavating Lefebvre: The Right to the City and Its Urban Politics of the Inhabitant' *GeoJournal* (2002) 58 99.

²¹ Emeke Chegwe, 'The Right to Housing in the Context of Nigerian Law and Human Rights Practice' *AGORA International Journal of Juridical Sciences* (2014) 1-11 <https://international.vlex.com/vid/right-housing-context-nigerian-rights-514037790> accessed 19 October 2026.

²² Chidi Anselm Odinkalu, 'Analysis of Paralysis or Paralysis by Analysis? Implementing Economic, Social and Cultural Rights under the African Charter on Human and People's Rights' *Human Rights Quarterly* (2001) 23(2) 327.

The relevance of this work is particularly because the African Commission's recognition of an implied right to housing in *SERAC v Nigeria* shows the path he advocated. The problem of non-compliance with regional decisions is a gap that does not address domestic enforcement.

In 2019, Farha, the United Nations Special Rapporteur on suitable housing, found unliveable housing conditions, forced evictions with little notice or compensation, and excess gubernatorial power under the Land Use Act. It was noticed that courts protected housing illegally through the prohibition of inhuman treatment. This report was highly relevant because it contained a comprehensive evaluation of housing in Nigeria by an external expert. One of the limitations of this report is it does not explore other models that can be comparable as a country report.

According to Pils based on evictions and expropriations in China argued that assessments only on efficiency of property institutions are not sufficient. Also, China's land regime should be evaluated by its impact on basic rights.²³ Pils' focus is right protection. It's relevance to this work is that it introduces comparative analysis because it factors treating China's property output as evidence of rights protection. However, it is limited to the fact that it does not contain what other third world countries and states might borrow from China.

Analysing urban development in Kigali through political settlement lens, Goodfellow argues that though Rwanda is praised for reforming Kigali and regularising land tenure, planning regulations are often seen

²³ Eva Pils, 'Assessing Evictions and Expropriations in China: Efficiency, Credibility and Rights' *Land Use Policy* (2016) 58 437.

as damaging to the poor.²⁴ Other researchers studied the Bannyahe settlement in Kigali and found out they the residents are resistant to expropriation because of the conflicts over valuation and procedure. This was called “silent boundaries’ on contestation.²⁵ While they temper the view of Rwanda as an easy model, they do not consider what Nigeria can learn from Rwanda’s statutory protections, irrespective of the limitations.

4.1 The Main Discourse: Rights to Shelter in Nigeria and Selected Jurisdictions: Challenges and Prospects

a. International and Regional Foundations

Shelter in Nigeria begins with international law. Article 11(1) of the ICESCR recognizes the right of people to a moderate standard of living, which includes adequate housing, and constrains states to take steps to ensure its realization.²⁶

However, at the regional level, the African Charter does not mention housing expressly. In *SERAC v Nigeria*, the African Commission held a meeting and concluded that the right to property, health and protection of the family under articles 14, 16 and 18(1) of the Charter, is an implied right to shelter, housing and protection against forced eviction. However, Nigeria breached this when the demolition of homes in Ogoniland occurred.²⁷

²⁴ Tom Goodfellow, ‘Rwanda’s Urban Transition and the RPF Political Settlement: Expropriation, Construction and Taxation in Kigali’ *Journal of Eastern African Studies* (2014) 8(2) 311.

²⁵ Shahd Esmail and Jason Corburn, ‘Struggles to Remain in Kigali’s “Unplanned” Settlements: The Case of Bannyahe’ *Environment and Urbanization* (2019) <https://doi.org/10.1177/0956247819886229> accessed 19 October 2026.

²⁶ ICESCR, Article 11(1).

²⁷ *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001); ESCR-Net, ‘Social and Economic Rights Action Center & Center for Economic and Social Rights v Nigeria’ <https://www.escr->

Although the African Charter ranks below the Constitution, the Supreme Court has held that it contributes to parts of Nigerian Law. The Supreme Court also held that it is enforceable by the Nigerian Courts since it has been familiarized in Nigeria.²⁸

b. The Nigerian Constitutional and Statutory Framework

The constitution in Section 16(2)(d) ensures that suitable and adequate shelter, food, a plausible national minimum wage, old age care and pensions, sick and disabled, and welfare for the unemployed are catered for all citizens.²⁹

The Supreme Court, however, held that the directive principles can become actionable where the National Assembly enforces legislation to implement them.³⁰ The explanation for this is held in section 13 of the Constitution. This section enforces on all organs of government the duty to conform to and apply Chapter 3, and on item 60 (a) of the Exclusive Legislative List, which empowers the National assembly to establish authorities and to promote and dictate the observance of the important objectives and principles.³¹

net.org/caselaw/2006/social-and-economic-rights-action-center-center-economic-and-social-rights-v-nigeria/ accessed 19 October 2026.

²⁸ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 Laws of the Federation of Nigeria 2004; *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228.

²⁹ CFRN 1999, Section 16(2)(d).

³⁰ *Attorney-General of Ondo State v Attorney-General of the Federation* (2002) 9 NWLR (Pt 772) 222; *Olafisoye v Federal Republic of Nigeria* (2004) 4 NWLR (Pt 864) 580.

³¹ CFRN 1999, Section 13 and Second Schedule, Part I, Item 60(a).

According to *Okogie v Attorney-General of Lagos State*, the Court of Appeal held that Chapter II is inferior in comparison to the foundational rights in Chapter IV.³²

Because the law does not clearly guarantee a roof over everyone's head, people fighting for shelter have to lean on what is written in Chapter IV. Things like right to life, personal dignity, family life and property. These rules only protect folks who already own or live in a home. For those who have nothing, the constitution does not hand you a key. Nigerian courts have occasionally adjusted the rules, extending the right to life to cover more than just breathing.³³

During the rule on the *Gbemre v Shell case*, the federal high court made a bold connection establishing that rights to life and dignity means nothing if your air is poisoning you. This same logic applies to a roof over your head. The government throws you to the street, where sickness, danger and death are waiting, which leads to breaking the exact promise. Nigerian courts have not officially declared a guaranteed right to housing. The legal argument remains, waiting for the right case.³⁴

Under the Nigerian law, the state governor controls every piece of land in the state, supposedly acting as a care taker for everyone. If the government decide that your land is needed for public purpose, the government can take it back.³⁵ When this happens, the government pays you what is built on the land such as your house and crops, but it's not for the value of the land itself. This law is very hard to fix, because it is locked in the constitution and can only be revoked on

³² *Okogie v Attorney-General of Lagos State* (1981) 2 NCLR 337.

³³ CFRN 1999, Sections 33, 34, 37, 43 and 44.

³⁴ *Gbemre v Shell Petroleum Development Company of Nigeria Ltd* (2005) AHRLR 151 (NgHC 2005).

³⁵ Land Use Act, Cap L5 Laws of the Federation of Nigeria 2004, Sections 1 and 28.

constitutional amendments.³⁶ The law treats your home as if it has no value even if your family has lived there for generations when you lack formal paper work or live in an informal settlement.

The government takes a small piece of a worker's paycheck to build a national housing fund, managed by the Federal Mortgage Bank of Nigeria. However, this safety net only catches a fraction of those who have a steady income in Nigeria.³⁷ The vast majority of Nigeria in the informal markets, are completely excluded from the system. This forces them to build or rent homes on their own. The people who need shelter the most get left behind.

c. Judicial and Quasi-Judicial Protection

Despite constitutional limitations, courts and regional bodies have provided indirect protection for the right to housing. In June 2017, the Lagos State High Court was determined that the dictated eviction of residents from Otodo-Gbame and other close communities without alternative settlement plan was not according to the constitution.³⁸ The court further restrained further evictions unless such alternatives were provided. This judicial reasoning transforms a non-judicial policy objective into an enforceable right by connecting eviction to the concept of dignity. Notable, the court acknowledged that the applicants did not assert ownership of the land, which remained under the governor's control. They concluded that it would be unjust to forcibly evict individuals who had occupied the land for many years.³⁹

³⁶ *ibid*, Section 29.

³⁷ National Housing Fund Act, Cap N45 Laws of the Federation of Nigeria 2004; Federal Mortgage Bank of Nigeria Act, Cap F16 Laws of the Federation of Nigeria 2004.

³⁸ Channels Television, 'Court Stops Lagos Govt from Further Evictions at Otodo Gbame' (21 June 2017) <https://www.channelstv.com/2017/06/21/court-stops-lagos-govt-evictions-otodo-gbame/> accessed 19 October 2026.

³⁹ Channels Television (n 46).

Consequently, the decision safeguards long-term occupation and residence, rather than merely legal title, alignment with General Comment No 4's position that informal occupiers are also entitled to a degree of security of tenure.

5.0 CHALLENGES TO THE REALIZATION OF THE RIGHT TO SHELTER IN NIGERIA

i. Non-justiciability and legislative inaction

The first difficulty is one of structure. Since section 16(2)(d) is non-justifiable and the national assembly has failed to legislate to render it justiciable, a homeless person has no legal standing to bring a case for breach of the right. However, the case of *Attorney-General of Ondo State v Attorney-General of the Federation* provides a way forward but requires political will.⁴⁰ According to the capability approach, the cost of this inaction is that the state's commitment to provision of sheltering is still an intention and not an enhancement of what people can do.

ii. Forced evictions and failure to comply with court orders

Forced evictions are the most obvious violations of the right to the city. Amnesty International has recorded several demolitions in Makoko and Badia East in Lagos, and Njemanze in Port Harcourt, with little prior notice, consultation, compensation and recourse to law.⁴¹ According to the Special Rapporteur, the number of evictions was estimated to be around 2.3 million during the period 1995 and 2005 and most were affected without prior notice, consultation and

⁴⁰ *Attorney-General of Ondo State v Attorney-General of the Federation* (n 35).

⁴¹ Amnesty International, 'Housing Is Our Human Right: End Forced Evictions in Nigeria' (AFR 44/009/2013) <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr440092013en.pdf> accessed 19 October 2026.

adequate compensation. The demolition of Makoko in 2026 is a case in point as the government justifies the act.⁴²

iii. The Land Use Act and Inadequate Compensation

The Land use Act undermines security of tenure. Since the Governor holds and may revoke rights of occupancy for overriding public interest, occupiers, particularly those in informal settlements without certificates of occupancy, possess minimal legal protection.⁴³ The constitutional entrenchment of the Act further impedes reform. Furthermore, a tension exists between section 44(1) of the constitution, which mandates prompt compensation for compulsory acquisition and the Act's restrictive compensation framework. Because the Act is entrenched, the constitutional guarantee has not displaced this narrow measure. Consequently, those more vulnerable to eviction, namely low-income urban occupiers are also least likely to receive compensation adequate to secure alternative shelter. This outcome directly contradicts the objective of General Comment No 7.⁴⁴

iv. Housing deficit, finance and data

For decades, millions of Nigerians have been trapped in an exhausting search for a protected shelter, navigating a system where official help is scarce and formal housing is an impossible luxury.⁴⁵ While recent data brings the estimated housing shortage down to about 14.9 million units, the reality on the ground remains devastatingly harsh.⁴⁶ every year, hundreds of thousands of new families require shelter over their heads but sky-high interest rates, low wages and a lack of mortgages lock the average person out of the legal property market. With no government safety net, everyday people are forced to put their life

⁴² Farha (n 4) paras 26 and 28.

⁴³ Land Use Act (n 41) Sections 28–29.

⁴⁴ CESCR, 'General Comment No 7' (n 9) para 16.

⁴⁵ Farha (n 4) paras 13 and 16.

⁴⁶ Federal Ministry of Information and National Orientation (n 3).

savings into building their homes brick by brick in informal communities. Sadly, they live in constant fear, knowing that the government could tear down everything they have built overnight.⁴⁷

v. Weak enforcement of judgements and regional decisions

Even when families win in court, the win is often empty because the government simply refuses to listen. We saw this when the African Commission ruled in favor of the people in the SERAC case, yet the promise of resettlement never happened and nothing was stopped.⁴⁸ When officials can demolish homes before a judge even decides, like they did during the Otodo-Gbame demolitions, legal rights become practically meaningless.⁴⁹ It crushes the spirit of ordinary people and destroys their trust that the law can actually protect the poor and keep a roof over their heads.

vi. Displacement by conflict and disasters

Families also lose their homes to things entirely out of their control like natural disasters. Since 2009, relentless conflict has enforced nearly two million people across Nigeria to flee for their lives, leaving them stranded in packed displacement camps or relying on the kindness of host communities in completely inadequate conditions.⁵⁰ When massive floods or sudden communal clash hit, people are instantly stripped of everything and thrown completely outside the formal housing system. The heartbreaking reality is that our current laws simply aren't built to catch them, leaving the most vulnerable

⁴⁷ CESCR, 'General Comment No 4' (n 7) para 8(c).

⁴⁸ ESCR-Net (n 30).

⁴⁹ Justice and Empowerment Initiatives, '#SaveTheWaterfronts: Forced Eviction of Otodo Gbame Against Court Orders' (2 April 2018) <https://www.justempower.org/blog/2018/4/2/watch-video-savethewaterfronts-forced-eviction-of-otodo-gbame-against-court-orders> accessed 19 October 2026.

⁵⁰ Farha (n 4) para 51.

with absolutely no specific legal protection or safety net when they lose a roof over their heads.

6.0 PROSPECTS OF ACCESS TO THE RIGHT TO SHELTER IN NIGERIA

There are, nonetheless, ground for cautious optimism. The most direct route lies with the National Assembly. *Attorney-General of Ondo State v Attorney-General of the Federation* confirms that the legislature may make section 16(2)(d) enforceable by statute, and a law that set standards for evictions and establishes a body to enforce them would do exactly that. The National Assembly could go further by domesticating the ICESCR under section 12 of the Constitution. This would give the right to adequate housing direct legal force, at least, as far as it is consistent with the Constitution.⁵¹

Policy and practice offer further openings. The new national housing data gives planners a baseline against which progress can be planned and measured. Upgrading informal settlements in place, rather than demolishing them, costs less and cause less disruption. It also gives effect to the right to the city theory's insistence that residents share in the value of urban land. Finally, the experience of China and Rwanda examined below, suggests that statutory rules on compensation and resettlement can limit the harm of urban redevelopment even where housing is not directly justiciable.

7.0 COMPARATIVE PERSPECTIVES

a. China

The Constitution of China grants ownership of urban land to the State and of rural land to the collectives, which means that land cannot be owned by individuals even though houses can be owned, along with

⁵¹ Fundamental Rights (Enforcement Procedure) Rules 2009, Order I, Rule 2.

land-use rights.⁵² The Constitution, amended in 2004, guarantees the inviolability of private property, stating that only in cases of expropriation in the public interest and as per law and after providing compensation will the expropriation take place. In addition, the Constitution also guarantees the inviolability of the residences of citizens.⁵³ The Civil Code provides that in cases where residential houses of individuals are expropriated, their housing conditions must be ensured, and the term of a residential land-use right shall be automatically extended upon its expiration.⁵⁴

These laws are significant in that they move the burden of proof and procedure from the individual to the State. An individual who fails to move out legally cannot be forcibly evicted by an administrative organ; the State must convince the courts. In Nigeria, there is no statutory requirement of a court order before the demolition of occupied property. Also, China has provided housing on a scale that few States can emulate. According to the report by the Minister of Housing and Urban-Rural Development in 2021, over 78 million government-subsidized houses have been built in China since 2008 and benefited over 200 million people.⁵⁵ Also, China has concentrated on the renovation of aged urban residential communities, with approximately 40,300 communities in 2020, which benefited almost

⁵² Constitution of the People's Republic of China 1982 (as amended), Article 10; Laney Zhang, 'Chinese Law on Private Ownership of Real Property' *In Custodia Legis, Law Library of Congress* (10 March 2015) <https://blogs.loc.gov/law/2015/03/chinese-law-on-private-ownership-of-real-property/> accessed 19 October 2026.

⁵³ Constitution of the People's Republic of China 1982 (as amended), Articles 13 and 39.

⁵⁴ Civil Code of the People's Republic of China 2020, Articles 243 and 359.

⁵⁵ China Daily, 'Govt Makes Subsidized Rental Housing Priority' (1 September 2021) https://english.www.gov.cn/statecouncil/ministries/202109/01/content_WS612eb2c6c6d0df57f98df734.html accessed 19 October 2026.

7.36 million families.⁵⁶ However, China ratified the ICESCR in 2001 without judicial enforcement of the right to housing and has been constrained by its household registration (hukou) system and a dual urban-rural land market to leave many of the migrant workers to informal urban villages which later get demolished.⁵⁷ Pils argues that forceful eviction and poor access to justice are some of the prevalent issues in China.⁵⁸

b. Rwanda

The privacy and inviolability of the home; the right to private property and to the private ownership of land; and the promotion of the welfare of persons with disabilities and other needy persons, are all protected in the Rwandan Constitution.⁵⁹ Unlike the Nigerian Constitution, there is no right to adequate housing provided expressly therein, yet Rwanda ratified the ICESCR in 1975 and is thus bound by Article 11(1). Land tenure is regulated under the Rwandan land law, while expropriation is regulated under Law No 32/2015, which provides for expropriation in the public interest and with fair prior compensation.⁶⁰ Under the Law, fair compensation means indemnity of the equivalent value of the land and its use, assessed at market price, as well as compensation for disturbance; compensation to be made before the project activities start; consultation of the local community; administrative review of the

⁵⁶ Xinhua, 'China Renovating 55,600 Old Urban Residential Communities' (2 February 2022) https://english.www.gov.cn/archive/statistics/202202/02/content_WS61f9de8dc6d09c94e48a49a8.html accessed 19 October 2026.

⁵⁷ Wu, Zhang and Webster (n 25).

⁵⁸ Pils (n 24).

⁵⁹ Constitution of the Republic of Rwanda 2003 (revised 2015), Articles 23, 34, 35 and 51.

⁶⁰ Law No 27/2021 Governing Land; Law No 32/2015 of 11/06/2015 Relating to Expropriation in the Public Interest, Article 3 https://www.minijust.gov.rw/fileadmin/user_upload/Minijust/Publications/Laws/Law_-_Expropriation.pdf accessed 19 October 2026.

expropriation; and five percent of the compensation to be for disturbance.⁶¹

In fact, Rwanda has been combining both expropriation and planned relocation of its citizens. In one instance, the residents of the Kangondo and Kibiraro area in Kigali, called Bannyahe, were compensated with apartments in Busanza through expropriation and offered a choice of leaving and suing for breach of contract; many opted to leave and sue and in 2019, the Gasabo Intermediate Court refused to consider the residents' case, allegedly because they had sued the wrong institution and had not followed the required administrative complaint process with the City of Kigali and the competent ministry.⁶² In a recent effort to solve the problems related to informal housing, the Rwanda Housing Authority is considering upgrading informal settlement areas like Mount Kigali, Jali and Rebero, where more than 41,000 families would be moved to a new settlement with access to water, electricity and road infrastructure.⁶³ One of such examples is the Mpazi rehousing model village in Nyarugenge District. As Goodfellow, Esmail and Corburn argue, however, such

⁶¹ Law No 32/2015 (n 74) Articles 2(3), 6, 11, 18 and 28.

⁶² Daniel Sabiiti, “‘Bannyahe’ Slum Residents Return to Court with a New Plea’ *KT Press* (27 November 2019) <https://www.ktpress.rw/2019/11/bannyahe-slum-residents-return-to-court-with-a-new-plea/> accessed 19 October 2026; *KT Press*, ‘Court Drops “Bannyahe” Expropriation Case, Residents to Appeal’ (11 February 2019) and ‘Relocation from “Bannyahe” High Risk Zone Begins’ (13 March 2020) <https://www.ktpress.rw/tag/bannyahe/> accessed 19 October 2026.

⁶³ Michel Nkurunziza, ‘What Is the Best Housing Model for Mount Kigali, Jali, Rebero?’ *The New Times* (9 June 2026) <https://www.newtimes.co.rw/article/36368/news/housing/informal-settlements-which-is-the-best-model-to-upgrade-them> accessed 19 October 2026; Michel Nkurunziza, ‘Over 40,000 Households Set for Planned Relocation’ *The New Times* (21 May 2026) <https://www.newtimes.co.rw/article/35864/news/housing/over-40000-households-set-for-planned-relocation> accessed 19 October 2026.

programmes are controversial, and the opportunity to object to plans rather than valuation is scarce.⁶⁴

7.1 Comparative Lessons

Several lessons emerge from this comparison. The first is that Nigeria's difficulty is not unusual. Neither China or Rwanda makes housing directly justiciable. What sets them apart is the body of statutory rules governing expropriation and resettlement, and those rules protect residents far better than Nigeria's do. Both countries require compensation at market value, paid before anyone is removed. However, in Nigeria, the Land Use Act largely confines compensation to unexhausted improvements. China prohibits forced demolition without a court order, and Rwanda requires prior payment consultation. These are concrete safeguards and Nigeria has no equivalent.⁶⁵

Nigeria however, have one advantage that China lacks. It's courts, and the regional bodies to which it is subject, have already recognized an implied right to housing and have protected residents against inhuman eviction. Combining the rights-based jurisprudence with the statutory safeguards found in China and Rwanda would produce a stronger framework than any of the three has alone. The comparison also carries a warning. Both jurisdictions show that strong state planning without effective participation can still harm them poor, which is exactly the danger the right to the city theory identifies. Nigeria should therefore borrow their safeguards on compensation and process, not their limits on contestation.

⁶⁴ Goodfellow (n 26); Esmail and Corburn (n 27).

⁶⁵ Farha (n 4) para 13.

8.0 SUMMARY OF FINDINGS

The right to shelter in Nigeria rests on section 16(2)(d) of the Constitution and on Nigeria's obligations under the ICESCR and the African Charter. Courts and regional bodies have drawn on the rights to life and dignity, the African Charter and the prohibition of inhuman treatment, most notably in *SERAC v Nigeria*, the *Otodo-Gbame decision* and the *ECOWAS Court's Bundu decision*. Attorney-General of Ondo State v Attorney-General of the Federation confirms that the National Assembly may make section 16(2)(d) enforceable by legislation, yet it has not done so.

Several challenges stand out. The first is the combination of non-justiciability and legislative inaction. Forced evictions keep happening, often without notice, compensation or resettlement, and sometimes in disregard of court orders. The Land Use Act concentrates control of land in State Governors and offers only limited compensation. Beneath all of this lies a housing deficit of about 14.9 million units, made worse by low public investment and weak housing finance.

Like Nigeria, neither China nor Rwanda makes housing directly justiciable. However, they provide statutory protections that Nigeria lacks. China protects against forced demolition, requires compensation at market value, guarantees housing conditions on expropriation at market value, consultation, and planned relocation. Neither model is without fault. Both show that state redevelopment can still displace the poor where participation is not meaningful and remedies are not accessible. Nigeria's comparative advantage lies in its existing rights-based jurisprudence, which could be combined with these statutory safeguards.

9.0 RECOMMENDATIONS

The National Assembly should pass a National Housing Rights Act pursuant to the powers accorded to it in the case of *Attorney-General of Ondo State v Attorney-General of the Federation* in implementation of section 16(2)(d) of the Constitution. The Act should provide for the definition of adequate housing on the basis of General Comment No 4, establish targets and devise mechanisms for monitoring and enforcement. The National Assembly should also domesticate the ICESCR through the process provided in section 12 of the Constitution. In the long run, Chapter II should be amended to ensure that the right to shelter is justiciable, at least in its minimum core.

The federal government and states should develop a code of law on eviction practices based on General Comment No 7, the Basic Principles and Guidelines on Development-based Evictions and Displacement and the China/Rwanda models. This should involve genuine consultations, adequate notice in writing, issuance of court orders before demolishing inhabited buildings, payment of compensation, and providing alternative housing before any demolition is made and evictions that leave people homeless should be banned. Governments should adhere to court orders prohibiting eviction actions, and court decisions to destroy properties in violation of its orders should be considered as contempt and compensation provided to residents.

The Land Use Act needs to be amended using the constitutional process so that there is compensation based on market value for the land and structures, recognizing the fact that people have been living in informal settlements for long periods for compensation and relocation, and making sure that there is less scope for overriding public interest. It is necessary that governments increase investments

in social and affordable rental housing, strengthen the National Housing Fund, and make use of national housing data to set targets.

10. CONCLUSION

While the right to shelter is recognized as policy in Nigeria, it is not recognized in law. Section 16(2)(d) of the Nigerian Constitution guarantees the state's obligation to provide suitable and adequate shelter, but section 6(6)(c) of the same Constitution prohibits the courts from enforcing this guarantee. Courts and regional authorities have tried their best by using the right to life and dignity and the African Charter, but such efforts do not offer protection from evictions but only protect individuals from some extreme form of eviction. China and Rwanda are examples of states which have adopted statutory mechanisms for compensation, prior payment and resettlement and invested extensively in housing development without having any justiciable right to housing in their constitutions. Nigeria has to learn from these two countries in implementing such measures as well as adopting the participatory and accountability elements which are lacking in their two systems. Nigeria already has everything in place. Nigeria has the constitutional guarantee to shelter; a domesticated African Charter, judicial decisions which have acknowledged the existence of an implied right to housing and protected residents from inhumane eviction, and most importantly, information about the magnitude of the housing deficit in Nigeria.