



SSIIM UNESCO CHAIR

On Social and Spatial Inclusion of International Migrants – Urban Policies and Practice

The right to adequate housing of migrants factsheets

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REPORT ON IMMIGRANTS HOUSING AND LIVING CONDITIONS IN GIBRALTAR

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The right to adequate housing for migrants - factsheets

The right to adequate housing for migrants is a series of thematic factsheets on migrants' level of access to adequate shelter in different urban contexts. Written by academic researchers and experts solicited by SSIIM UNESCO Chair, the factsheets were aimed at providing background information for the 2010 Report of UN-Special Rapporteur on Adequate Housing Dr. Raquel Rolnik.

Besides presenting the picture of the overall housing situation of migrants in the concerned contexts, authors were asked to highlight what the conditions of international migrants (regular and undocumented) are with respect to

- access to public housing and/or government subsidies
- access to housing loans
- access to the private housing market (discriminatory attitudes)
- inclusion into regularization and land tenure policies (if any, highlighting whether it is a local or a central government policy)

Authors were also invited to underline whether differences in policies/attitudes between local (poor) population (including rural-urban migrants) and international migrants are put in place and if any particularly interesting policy is being implemented that could be pointed out as innovative example.

Through the network of the partner universities, research centres and other relevant actors, SSIIM UNESCO Chair on Social and Spatial Inclusion of International Migrants - Urban Policies and Practices aims at:

- Identifying policies and practices that promote the urban inclusion of international migrants
- Supporting local governments in shaping adequate actions to foster effective urban governance and the social/spatial integration of international migrants
- Disseminating the experiences that can provide ground for effective policy exchange (good practices)
- Raising the awareness of policy-makers and the civil society at large, on the importance of international migrants' urban social and spatial inclusion

1. Geography

Gibraltar is a small 300 year old former colony now described as a British Overseas Territory positioned at the bottom of the Iberian Peninsula, connected to southern Spain by a narrow strip of land. Gibraltar has a superficial land area of 2.53 square miles – 6.543 square kilometers. The flat land is shared between the Military and Civil interests in Gibraltar and is therefore a scarce resource. The percentage of undeveloped land is extremely small when one excludes the rocky cliffs and steep sloping land on the upper rock.

a. Number of inhabitants

Persons per Sq. Km. is increasing in 2008 it was 4 881.

b. Difficulties with living and housing in Gibraltar

Traditionally finding somewhere to live has been the number one problem in Gibraltar. During II WW the population was evacuated and there was a delay in repatriation due to lack of suitable accommodation, much having been taken over by the military. Nowadays, several housing estates were built, however this remained the largest local political issue, until the reclamation project when the new private estates built and the Government estate coupled with the release of MoD property no longer used, has largely solved the problem for local residents. Also, renting housing remains a problem as the private sector is very expensive and there is more demand than supply. Many workers - non-Gibraltarians working in Gibraltar live in Spain which has the advantage of size and space.¹

2. Who is living in Gibraltar?

Total number of inhabitants in 2001 was 27,495. Immigrants (non-Gibraltarians) – 4613.

Gibraltar inhabitants				
	1970	1981	1991	2001
Gibraltarians	18 873	19 825	20 022	22 881
Other British	3 001	3 706	3 811	2 627
Moroccans	2 798	2 140	1 798	861
Other Nationalities	-	808	1 072	1 025
Total	24 672	26479	26 703	27 495

Nationality	Number	Percentage
Gibraltarian	22,882	83.2
Other British	2,627	9.6
Moroccan	961	3.5
Spanish	326	1.2
Other EU	275	1.0
Other	424	1.5

¹ www.gibnet.com/employ.htm

3. Gibraltar Law

Land tenure in Gibraltar follows UK principles. Land and property are either held on a Freehold or Leasehold basis, with the latter taking various forms depending on the length of the lease term and whether residential or commercial. It is not the policy of the Government, to grant Freeholds. Those that do exist are historical and are mainly concentrated in the central Town area. It is now the common practice to make available Crown Lands and property on long leasehold terms usually for 99 or 150 years. Commercial lettings take various forms depending on the circumstances of the business venture and location.²

Property Law in Gibraltar is broadly based on the UK system as it was prior to the inception of the Law Property Act 1925. There are no restrictions on foreign nationals purchasing except in some residential developments jointly owned by individuals and Government where purchasers must qualify as eligible for Government Housing.³

a. *Migration Law - Asylum Regulations 2008*

Housing

13.(1) The Government shall ensure that applicants and their dependant family members have adequate accommodation, or provide them with the means (including financial means) to obtain such adequate accommodation. Such accommodation may take the form of

- (a) private houses, flats, hotels or other premises; or
- (b) accommodation centres.

(3) Where accommodation is provided by or on behalf of the Government it may be a condition of residence in that accommodation that the applicant or dependant family member makes payments, in respect of that accommodation, to

- (a) the Government; or
- (b) the manager of the accommodation in question.

(4) The Government shall take account of the ability of the applicant or dependant family member to meet their own financial needs when assessing

- (a) whether any payment is required;
- (b) the amount of any payments to be made by an applicant or dependant family member under sub-regulation (3); or
- (c) the amount of any financial assistance to be provided to an applicant or dependant family member under sub-regulation

(1).

(5) Where accommodation is provided in accommodation centres– (a) measures shall be taken to prevent assaults within such centres;

(b) applicants and dependant family members may be involved in managing the material resources and non-material aspects of life in the centre through an advisory office or council

(6) Applicants housed in accommodation provided by, or on behalf of, the Government–

- (a) may be transferred from one housing facility to another only when necessary; and
- (b) if transferred, shall be provided the opportunity to inform their legal advisers and UNHCR of their transfer and of their new address.

² www.investgibraltar.gov.gi/pdf/Property%20Development_SUB_Jan08.pdf

³ www.investgibraltar.gov.gi/pdf/Property%20Development_SUB_Jan08.pdf

Housing - family unity.

14.(1) Subject to sub-regulation (2), where housing is provided by the Government to an applicant, such housing shall, as far as possible, provide for applicants and their family members to be housed together.

(2) Applicants and their family members shall be housed together under sub-regulation (1) only with their agreement.

(3) Save where it is not in the best interest of the child and subject to regulation 20 (unaccompanied minors), minors shall be housed with—(a) their parents, if their parents are in Gibraltar; or (b) with an adult family member present in Gibraltar who is responsible for the minor whether by law or by custom.

b. Housing Law

Bill for a Housing Act, 21 May 2007

The Bill reforms the system for the administration of Government housing; reforms and incorporates the Landlord & Tenants Act as it relates to residential dwellings; makes legislative provision for anti-social behaviour legislation covering all housing areas; sets up a new Housing Tribunal and a statutory Housing Advisory Council; and consolidates the current law relating to Management Companies. This Bill results in all Gibraltar's Housing legislation being consolidated in one Housing Act.

Property bought by a non-resident may be owned by an individual applicant or joint applicants, or alternatively, in the name of a company of which the applicant is the 100 per cent beneficial owner and over which he/she has full and effective control. In fact there are tax advantages if the property is purchased through a Gibraltar company. It is not essential that the property be purchased prior to approval of an application. However, the property to be purchased must be nominated and a refundable deposit paid to reserve the property for the applicant until the application is considered by the Government. Once the application is approved the applicant, on completion of the purchase of the property, will obtain a permit of residence. A permit is renewable after a specified term providing the requirements are met and the property is owned by the applicant.

The holder of a residence permit need not live in Gibraltar and is not automatically entitled to social security or citizenship. However, the resident's children may attend local schools and are entitled to the same benefits as other local residents.

If a non-EU national wishes to stay in Gibraltar other than through the property 'doorway', he must usually try to find employment, for which he will receive a work permit only if there are no Gibraltarians able and willing to perform it. Such individuals will be given residence permits for shorter or longer periods depending on the nature of the work for which they have a permit. The government can deny a non-EU national the possibility of buying residential property.

Foreigners have no access to low-rent public housing. Renting privately can be expensive.

4. Living conditions

The worst situation is presented by Moroccans. Very few Moroccans have been given citizenship rights; they have little access to public housing; they are denied the right to vote in the European elections; they have problems with travelling to visit family in Morocco and restrictions on family visiting them in Gibraltar and they are still denied access to some public services.

A lot of information we could find in the reports and press. " At the government-owned Buena Vista workers hostel in a former barracks overlooking the Strait of Gibraltar, music blares from a radio station broadcasting from Morocco, just eight miles away. Many here pay no rent, but conditions are grim. Up to 16 men share cockroach-infested kitchens and communal bathrooms. Each immigrant gets a curtained-off, ceilingless cubicle measuring just 8ft by 6ft. There is room only for a bed, a cupboard and about one foot of space between them. Omar Sidida, aged 64, and his friend El Amine Bukkali, aged 73, each live in one tiny cubicle. " There is no room for anything here," says Sidida. " I worked for 35 years. Why does no one help us? Everyone has rights, except for us." From the two shabby tenement rooms he shares with four others, Ahmed Taheri can see

the luxury harbourside developments where wealthy foreigners, the " high net worth individuals" who buy residency in Gibraltar, live."

Peter Caruana - Gibraltar chief minister – respond: "There are plans to build a new hostel. I would expect the project to materialise during the next year or two.... We have worked closely for the last 12 years with the Moroccan Workers Association to bring improvements to their position, affordably and at a viable pace... Gibraltar is a very small place and a small community, uniquely affected by a lack of physical space."

The Buena Vista hostel accommodates about 250 single Moroccan men, with the oldest resident having lived and worked in Gibraltar for around 35 years.

These are the allegations being made by Moroccan workers at the Buena Vista hostel:

The rooms are tiny and cramped – a mere 2.5m by 2m

- * Half the showers and toilets are broken and unusable
- * Sections of tiling have fallen off the walls in the bathrooms
- * The bare, rough concrete floors in the toilets and showers are unhygienic
- * Damp and mould affect many of the walls and ceilings
- * Half the rings on the kitchen cookers do not work
- * Only one sink per 13 residents, for washing plates and utensils
- * No heating in winter
- * Laundry facilities are non-existent
- * Much of the premises are infested with cockroaches
- * The hostel is poorly facilitated and supervised, with no adequate maintenance and repairs service⁴

In general, Moroccans living in Gibraltar object to the discriminatory treatment they face in trying to access public housing. They are not eligible to put their name on the Government housing list, as this is restricted to Gibraltarians, British nationals and Commonwealth citizens. The rules (housing allocation schedule) covering this area are kept secret and unclear.

As low paid workers, Moroccans are not able to find low rent public housing and are forced to rent privately which is expensive. Often, private housing is sub-standard and low quality and many Moroccans are ghettoised into a particular area in the oldest part of town.

⁴ www.petertatchell.net/international/slumsontherock.htm

5. Institutions

a. Housing Tribunal

The Bill establishes a Housing Tribunal. The Tribunal will have functions in respect of both public and private housing.

In respect of Government Housing, the Bill gives tenants and housing applicants a right, for the first time ever, to appeal against any and every decision of the Housing Department or the Housing Allocation Committee.

In Private Housing, the Tribunal will have functions under the Landlord & Tenants provisions relating both to setting of rents and appeals.

A further right of appeal from the Tribunal to the Courts is given by the Bill.

b. Housing Advisory Council

The Bill establishes a statutory Housing Advisory Council. The functions of the Council are to assess, and keep under review, the housing market in Gibraltar, and in particular to monitor supply, demand, house prices and affordability, both in relation to purchase and rental housing, and to advise the Government thereon. The Council will advise Government on all matters related to housing in Gibraltar, both private and public housing.

The Council comprises of Housing Minister; the Government's Principal Housing Officer; the Managing Director of Land Property Services Limited; two representatives of private housing estates; two representatives of Government housing estates tenants associations; two persons representing the interests of private landlords; and two other persons knowledgeable and experienced in housing issues selected by the Minister.

- i. The Government is established as the housing authority charged with the general management and supervision and control of public housing;
- ii. Government is empowered to make housing allocation schemes and rules relating to public housing, eligibility, exchanges, decanting, homeless persons, new estates and other special or exceptional circumstances;
- iii. Statutory rents in private houses are very low and have not increased since the mid nineteen eighties. Accordingly they will increase by 100%. Although the percentage is very high, it is a percentage of such a low figure, that the actual money increase is much less than real cost increases in housing. To protect tenants who may suffer financial hardship, the Government will extend the "Rent Relief" system (which currently only applies to Government tenants) to tenants of private housing in controlled tenancies. "Old Section 15" tenancies remain protected at the current rents, which become the statutory rent. They are not subject to the increase described above.⁵
- iv. All rents will be allowed to increase annually automatically by the percentage increase in index of retail prices.

"Housing has always been a problem in Gibraltar because of the scarcity of land but the Government should be doing much more to address this issue. It is not building enough houses and it is not building them fast enough. When it does decide to build houses it has presided over a whole series of botched up schemes involving OEM/ Haymills [South District] or Brues [Waterport]. In that way it has done no better than the GSLP who presided over the Harbour Views fiasco. The Government has even promised affordable housing that has never actually transpired [Eastside project].

⁵ <http://www.gibraltar.gov.gi>

The housing waiting list is still too long and many families live in unacceptable conditions. The problem is that the Government's new housing policy is a shambles of inefficient delivery and broken promises⁶.

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⁶ www.chronicle.gi/headlines_details.php?id=19211