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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the thematic report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha, prepared pursuant to Council resolution 25/17. In the report, the Special Rapporteur considers homelessness as a global human rights crisis directly linked to increased inequality of wealth and property, requiring urgent attention. She examines how homelessness is caused by States' failures to respond both to individual circumstances and to a range of structural causes, abandoning responsibility for social protection and allowing unregulated real estate speculation and investment to exclude a growing number of people from any form of housing. She outlines a clear set of obligations on States under international human rights law that, if complied with, would eliminate homelessness. She proposes a global campaign to eliminate homelessness by 2030.

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I. Introduction

1. The present report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, is submitted pursuant to Human Rights Council resolutions 15/8 and 25/17.

2. Homelessness is a global human rights crisis that demands an urgent global response. It is occurring in all socioeconomic contexts — in developed, emerging and developing economies, in prosperity as well as in austerity. It is a diverse phenomenon, affecting different groups of people in different ways but with common features. It is symptomatic of the failure of governments¹ to address growing inequalities in income, wealth and access to land and property and to effectively respond to the challenges of migration and urbanization. Homelessness occurs when housing is treated as a commodity rather than as a human right.

3. At the same time, homelessness represents individual experiences of some of the most vulnerable members of society, characterized by abandonment, despair, erosion of self-esteem, denial of dignity, serious health consequences and loss of life. The term “homeless” describes not only a lack of housing but also identifies a social group. The close link between the denial of rights and a social identity distinguishes homelessness from deprivations of other socioeconomic rights. People denied water or food are rarely treated as a social group in the way homeless people are. Those who are homeless are subject to stigmatization, social exclusion and criminalization.

4. Homelessness is an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment. However, it has not been addressed with the urgency and priority that ought to be accorded to so widespread and severe a violation of human rights. Homelessness was not mentioned in the Millennium Development Goals, is absent from the Sustainable Development Goals and has been rarely mentioned in the preparatory work for the United Nations Conference on Housing and Sustainable Urban Development (Habitat III). Violations of the right to life because of homelessness have rarely been addressed as such by international human rights bodies.

5. In the present report, the Special Rapporteur considers how homelessness is experienced as a human rights violation and how it can be effectively challenged and eliminated if addressed within a human rights framework. She urges that the elimination of homelessness be affirmed as a cross-cutting human rights priority in socioeconomic policy, planning and development.

6. The Special Rapporteur solicited and received over 70 responses with information and views on the issue from States, civil society, national human rights institutions and United Nations agencies.² She held a two-day expert consultation in Buenos Aires³ with 25 experts in homelessness and the right to housing from around the world. She is grateful for

¹ In the present report, “governments” refers to all levels of government, including local and subnational, unless otherwise stipulated.

² All responses to questionnaires and information on the consultation are available from www.ohchr.org/EN/Issues/Housing/Pages/Homelessnessandhumanrights.aspx.

³ Co-organized with the Argentinian non-governmental organization Centro de Estudios Legales y Sociales in November 2015.

all the information and guidance received. The Special Rapporteur is also appreciative of the important work done on this topic by her predecessor, Miloon Kothari.

II. Towards a human rights definition of homelessness

A. What does “homelessness” mean?

7. The word “homelessness” in English does not always have an equivalent translation in other languages. In English, “homelessness” suggests both a lack of physical housing and a loss of a sense of social belonging. In some other languages, the closest word to homelessness would be “rooflessness”, lacking shelter or transience. In French, homelessness is referred to as either “*sans domicile fixe*” or “*sans-abrisme*”. In Spanish, homelessness is referred to as “*sin hogar*” or “*sin techo*” or “*en situación de calle*” or “*poblaciones callejeras*”.

8. Definitions of homelessness adopted by international agencies, governments, researchers or civil society vary widely, depending on language, socioeconomic conditions, cultural norms, the groups affected and the purpose for which homelessness is being defined. It is generally agreed, however, that the experience of homelessness around the world is not fully captured without a richer definition that goes beyond reference to deprivation of physical shelter.

9. The definition of homelessness is often based on where individuals live or sleep, for instance, those who sleep “rough”, in emergency shelters or in institutions, such as prisons or psychiatric institutions. While definitions on the basis of location have the advantage of being less ambiguous, they tend to distort perceptions of who is homeless. Single men will live on the streets or in shelters, for example, while women with children will seek other options, such as with family or friends, to avoid the severe repercussions associated with street life, including violence and child apprehension.

10. Homelessness has also been defined with reference to what is lacking. The Statistics Division of the Department of Economic and Social Affairs of the United Nations has defined “primary homelessness” as persons living without a shelter or living quarters and “secondary homelessness” as including persons with no place of usual residence. In some contexts, homelessness is understood as a lack of access to land as well as to shelter. In rural Bangladesh, for example, homelessness is assessed on the basis of whether a household has a regularized plot of land as well a roof overhead.⁴ Other definitions focus on being deprived of a certain minimum quality of housing. The Institute of Global Homelessness has proposed as a global definition: “lacking access to minimally adequate housing”, while listing various categories of living situations that fall within this general definition.

11. However, many people living in informal settlements and lacking basic services are certainly deprived of minimally adequate housing yet they have worked hard to establish and build homes and, importantly, would not self-identify as homeless. It would, therefore, be inappropriate to define the more than 1 billion people worldwide estimated to be living in informal settlements as homeless, even though their needs are critical and must also be addressed as a priority. Within informal settlements there are, however, residents who have established temporary accommodation because they have no other options who are living in

⁴ See G. Tipple and S. Speak, “Definitions of homelessness in developing countries”, *Habitat International*, 29 (2005), p. 342. See also the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2005/48).

particularly precarious situations — overcrowded and unsafe situations, sometimes renting informally, subject to eviction at a moment's notice or in grossly inadequate shelter unfit for human habitation. These households might reasonably be considered and may self-identify as homeless.

12. Different definitions can create different perceptions and policy priorities. In Japan, when homelessness was defined in terms of those living on the street, available data suggested declining numbers as a result of shelter programmes. However, when defined as “lacking access to minimally adequate housing”, data showed increasing numbers of homeless.⁵

13. Definitions relating only to a lack of physical shelter also fail to take into account the loss of social connection — the feeling of “belonging nowhere”⁶ — experienced by homeless persons. A number of States have attempted to address this concern by referencing the rupture of family or social connections in their definitions of homelessness. Including the more qualitative aspects of social exclusion linked to homelessness, however, can make definitions too imprecise for some purposes.

14. Different types of homelessness can also be understood in relation to choices of survival strategies and lifestyles. Advocates for street-connected children and young people suggest that a definition of homelessness that recognizes agency and choice as well as deprivation is preferable.

B. A three-dimensional human rights definition of homelessness

15. Different definitions of homelessness serve different purposes. A universally applied definition with common measurement, as proposed by the Institute of Global Homelessness could play an important role in promoting enhanced State accountability and informing development goals.

16. From a human rights perspective, the Special Rapporteur advocates a flexible and contextual approach to defining homelessness that recognizes experiences and understandings of homelessness among different groups and in diverse circumstances. A human rights definition should focus attention on the most desperate situations while ensuring that those who are homeless identify those circumstances themselves, define their needs and are recognized as actors in effecting change to fully realize their right to adequate housing. The social dimensions of homelessness are also central to a human rights definition.

17. In light of these considerations, the Special Rapporteur proposes the following three-dimensional approach anchored in human rights:

(a) The first dimension addresses the absence of home — both the absence of the material aspect of minimally adequate housing and of the social aspect of a secure place to establish a family or social relationships and participate in community life;

(b) The second dimension considers homelessness as a form of systemic discrimination and social exclusion, recognizing that being deprived of a home gives rise to a social identity through which “the homeless” is constituted as a social group subject to discrimination and stigmatization;

⁵ Rayna Rushenko, “Homelessness and related policy in Japan and Malaysia”, presentation on homelessness in a global landscape, 2 June 2015. Available from http://media.wix.com/ugd/d41ae6_167a5007c11a4cc49fe75499fd60325b.pdf.

⁶ United Nations Human Settlements Programme, *Strategies to Combat Homelessness* (2000).

(c) The third dimension recognizes those who are homeless as rights holders who are resilient in the struggle for survival and dignity. With a unique understanding of the systems that deny them their rights, homeless people must be recognized as central agents of the social transformation necessary for the realization of the right to adequate housing.

18. A human rights definition of homelessness undermines “moral” explanations of homelessness as personal failures to be solved with acts of charity and instead reveals patterns of inequality and injustice that deny those who are homeless their rights to be equal members of society.

III. Discrimination, stigmatization and social exclusion

A. Social construction of homelessness

19. Those who are homeless are constructed as a social group. Worldwide, their identity is created and then reinforced by people who have more money, more power or more influence. It is a vicious circle. Laws, policies, business practices and media stories depict and treat homeless people as morally inferior, undeserving of assistance and authors of their own misfortune, and blame them for the social problems they come to represent. Once stigmatized, their needs are further neglected and inequality and discrimination further entrenched.

20. Strategies to address homelessness are, ironically, often tainted with prejudice and stigmatization. For example, in August 2015, the office of the Mayor of New York introduced a mobile telephone application called Map the Homeless⁷ that allowed users to take snapshots of homeless people and report them to the police. Social media hashtag labels included #AggressivePanhandling and #Violent.

21. Homeless people are subject to constant intimidation and harassment by authorities and the general public; they are denied access to basic services or places to shower, urinate or defecate; they are rounded up and forced out of cities and relocated to uninhabitable places; they are walked over and passed by; they are subject to extreme forms of violence, including hate crimes and sexual violence; and they are often the subject of vilification. At the same time, some forms of homelessness remain totally invisible and neglected, in particular in parts of the global South, where homelessness remains relatively unacknowledged or where the distinction between very precarious housing conditions and homelessness may not be easily drawn.

22. The humiliation homeless people suffer in their daily lives cannot be underestimated. Take for example, the experience of women who lack adequate sanitation facilities, especially during menstrual cycles, or of families who are treated like “human waste”, forced to establish their households on or next to a garbage dump. Homeless people have told the Special Rapporteur, often through tears, that more than any material security, what they yearn for is to be “seen”, to be recognized and treated by society as human beings with inherent dignity and respect.

⁷ Available online from <https://play.google.com/store/apps/details?id=com.dfox.nycmapthhomeless&hl=en>.

B. Criminalization of homelessness

23. National and local laws often make homeless people into lawbreakers, rather than protecting their rights. Laws are created to render homeless people invisible, to displace them from land or housing and destroy their makeshift shelters. In many places punitive measures such as fines or incarceration are imposed for activities linked to basic survival, including constructing any kind of shelter out of cardboard.⁸ Laws enable authorities to “rescue” street-connected children, depriving them of their liberty without due process or respect for the social networks upon which they rely.

24. Such laws are often framed under the guise of public health and safety but, in reality, the aim is to “beautify” an area for the promotion of tourism and business or to increase property values. Examples are countless: in Zimbabwe, an operation to “sweep out the rubbish” through demolitions of shanty towns in 2005 left up to 1.5 million people homeless in the middle of the winter.⁹ In June 2014, the Mayor of Honolulu introduced new measures to crack down on homelessness because tourists want to see “their paradise, not homeless people sleeping”. In Medellín, Colombia, during the World Urban Forum, the homeless population was transported outside of the city.¹⁰ In Australia, “move on” laws permit authorities to “disperse” homeless people “where a person’s mere presence could cause anxiety to another person or interfere with another’s ‘reasonable enjoyment’ of the space”.¹¹

C. Discrimination in access to land and housing

25. The favouring of profit over people’s human rights through the unequal allocation of land, property, housing and related services in cities is a major driver of homelessness. Unregulated or underregulated financial and other market forces, and unfettered land and property speculation resulting in escalating land values, all contribute to the inequality of wealth distribution and homelessness. These systemic inequalities are compounded by direct discrimination against people who are poor, often pushing them to precarious housing conditions, including into informal settlements or on occupied land, and ultimately into homelessness. Many municipalities use planning and zoning laws or regulations to prevent construction of shelters or affordable housing in their communities. Homeless people are often denied opportunities to live in central locations; instead, they are compelled to live in remote, isolated and poorly serviced areas where there are no jobs.

26. Dichotomies of legal/illegal, formal/informal and deserving/undeserving applied in the global South parallel the criminalization of homelessness in northern countries. The urban poor are made “illegal” and “encroachers” by the denial of fair access to land and legal status or title. People who have been rendered homeless in urban centres are relocated

⁸ National Coalition for the Homeless, *Share No More: The Criminalization of Efforts to Feed People in Need* (October 2014), available from <http://nationalhomeless.org/wp-content/uploads/2014/10/Food-Sharing2014.pdf>.

⁹ Owen Dyer, “Zimbabwean clearance policy leaves 1.5 million people homeless”, *British Medical Journal*, vol. 331, No. 7509, p. 130 (2005).

¹⁰ Greg Scruggs, “Medellin Opens Its Changing Streets to the World Urban Forum”, available from <https://nextcity.org/daily/entry/medellin-opens-its-changing-streets-to-the-world-urban-forum>.

¹¹ Response to the questionnaire from the Australian Human Rights Commission.

to city peripheries and deprived of economic opportunities and social networks, a process that has been labelled “socio-spatial stigmatization”.¹²

27. Widespread and severe discrimination and stigmatization on the ground of homelessness has rarely been addressed effectively by national human rights institutions or subjected to effective judicial or administrative remedies, and only rarely recognized in domestic legislation as a prohibited form of discrimination.

IV. Interconnected causes of homelessness

28. Homelessness is caused by the interplay between individual circumstances and broader systemic factors. A human rights response to homelessness addresses both. It understands that homelessness may be linked to individual dynamics such as psychosocial disabilities, unexpected job loss, addictions or complex choices to become street-connected, and that a major cause of homelessness is the failure of governments to respond to unique individual circumstances with compassion and respect for individual dignity. A human rights approach must also, however, address the overarching structural and institutional causes of homelessness — the cumulative effect of domestic policies, programmes and legislation, as well as international financial and development agreements that contribute to and create homelessness. In her consultations, the Special Rapporteur found that inequality and the conditions that breed it are the most consistently identified causes of homelessness.

29. Rapid global urbanization has resulted in an astonishing accumulation of wealth for a few, accompanied by increasing poverty for many. Reliance on private market housing supply to respond to urbanization needs has meant that new housing supply has targeted mostly the rich, creating inflated real estate values, speculation and significant deficits of affordable housing. People who move to cities often have no choice but to live in informal settlements where millions suffer, in varying degrees, from poor sanitation, lack of access to clean water, overcrowding and makeshift structures. Instead of ensuring access for people in need of housing, land regulations, planning and zoning have rendered informal settlements “illegal”, favoured commercial development over housing and failed to respect the social function of land as a public good. The legacy of colonialism in some countries has embedded inequality in land and property.

30. The precariousness of informality and the prevalence of development-based evictions continue to be major structural causes of homelessness. Informal neighbourhoods are wiped out and replaced with high-end tourist attractions, shopping malls or entertainment districts. Land contamination and mismanagement compound these effects. Evictions without adequate resettlement, as is common, invariably lead to homelessness.¹³

31. Worldwide, there is evidence of a consistent pattern: governments have abandoned their critical role in ensuring social protection, including affordable housing, have cut or privatized social benefits and have deferred to the private market, allowing private actors and elites with access to power and money to control key areas of decision-making.¹⁴ As a result, real estate and speculative capital have guided land use and urban development.

¹² See *Urban Policies and the Right to the City in India*, United Nations Educational, Scientific and Cultural Organization (New Delhi, 2011), pp. 63-75. Available from <http://unesdoc.unesco.org/images/0021/002146/214602e.pdf>.

¹³ See, for example, the case of the Badia community in Lagos, Nigeria (case NGA 1/2015). An urgent appeal by the Special Rapporteur will be made available at the thirty-first session of the Human Rights Council.

¹⁴ Response to questionnaire from the Danish Institute for Human Rights.

Even where there has been large-scale investment in affordable housing, such as in Sao Paulo, Brazil, the interests of speculative capital have dominated.¹⁵ Labour market deregulation, reduced rates of taxation on wealthier individuals and corporations, displacement by extractive industries, dams and other developments, the privatization of infrastructure and services, predatory lending and many other factors have all emerged from the abandonment of the central role of governments.

32. The proliferation of trade and investment agreements has dramatically altered State accountability, with the interests of large corporate investors prioritized over obligations to protect human rights and ensure the sustainability of local enterprises and communities.

33. Fiscal crises around the world have resulted in significant increases in homelessness and have given rise to a new category of homeless — highly educated individuals who had a good standard of living but who, due to an economic crisis, experienced unemployment and ultimately homelessness. The 2008 crisis, for example, and the accompanying austerity measures, caused a massive rise in homelessness in several European countries.¹⁶ Evidence suggests, however, that widespread homelessness did not occur in the aftermath of the global economic crisis in countries where governments were careful to ensure that reactive measures did not undermine social protection.

34. The causes of homelessness vary among particular groups. Street-connected children come from families with a wide range of experiences, including death, dislocation, disease, isolation, poverty, mental illness, domestic violence, child abuse and drug use. Women are forced into homelessness because of violence, unequal access to land and property, unequal wages and other forms of discrimination. Persons with disabilities are made homeless by lack of work, livelihoods and accessible housing. Young people are often denied access to housing and services in cities if they do not have appropriate government-issued documentation or identity cards. Conflict results in massive displacement and migration, as has been evidenced clearly by the waves of refugees from countries such as Afghanistan, Eritrea, Iraq, Somalia and the Syrian Arab Republic escaping from conflict, widespread violence and insecurity.

35. Rural homelessness has been the result of decreasing food security from household production, climate change, corporatization of agriculture, loss of land through subdivision at inheritance, declining civil security in rural areas, extreme poverty, unregulated resource exploitation and natural disasters. Rural homelessness usually leads people to migrate to urban areas in search of work and housing.

36. Many societal changes without adequate State responses contribute to homelessness. For example, the break-up of traditional family structures is a prevalent cause of homelessness. Men who move to cities for economic reasons often forgo shelter in order to save money to send back to their families in rural areas. In many States, long traditions of extended family support and kinship responsibility at the community level have been eroded. Illness, including the HIV/AIDS pandemic, is both a major cause and effect of homelessness.

37. Natural disasters, such as the 2004 tsunami in South-East Asia and the 2008 earthquake that struck Sichuan Province, China, result in homelessness by destroying housing, infrastructure and livelihoods and setting back housing strategies. The earthquake

¹⁵ Response to the questionnaire from the Public Defender of Sao Paulo, Brazil.

¹⁶ See, for illustration, the response to the questionnaire from the Spanish Ombudsman; Olga Theodorikakou et al, “‘Neo-homelessness’ and the Greek Crisis” (2013), available from http://feantsaresearch.org/IMG/pdf/ot_et_al_review.pdf; and European Commission, “Homelessness during the crisis”, available from <http://ec.europa.eu/social/BlobServlet?docId=9847&langId=en>.

in Nepal in 2015 left thousands homeless, with 320,000 children sleeping rough in the immediate aftermath.¹⁷ Informal settlements are often located in disaster-risk areas. International responses to natural disasters tend to focus on immediate emergency needs for medical care and shelter, sometimes requiring proof of prior residence or tenure arrangements in order to provide services — which homeless people lack — and neglecting the need for longer-term strategies to address the resulting legacy of homelessness.

38. The common denominator in virtually all structural causes of homelessness is government decision-making inconsistent with human rights — neglecting or failing to respond adequately to the needs of the most disadvantaged in response to crises or economic developments and allowing unregulated market forces to render large numbers of people homeless.¹⁸ Homelessness is created when apparently external structural causes converge with the systemic patterns of social exclusion and discrimination and when governments fail to address new challenges within a human rights framework.

V. Homelessness and marginalized groups

39. Discrimination is both a cause and a consequence of homelessness. Those who face discrimination on the grounds of race, ethnicity, place of origin, socioeconomic status, family status, gender, mental or physical disability, health condition, sexual orientation and/or gender identity and age are more likely to become homeless and, once homeless, experience additional discrimination. The intersections of other grounds of discrimination with homelessness vary in different countries. In some, for example, racial inequality intersects strongly with homelessness. In Brazil, African-Brazilians make up only 7 per cent of the population of wealthy areas and yet make up the majority in informal settlements.¹⁹ In the United States of America, black families are seven times more likely to be homeless than white families.²⁰

40. The ongoing legacy of discriminatory customary and statutory laws on divorce, inheritance and matrimonial property — as well as social practices that attribute housing to male heads of households and the resultant poverty — deprive women of security of tenure and render them particularly vulnerable to homelessness.²¹ When women are widowed, separated or divorced,²² need to leave violent households or flee situations of armed conflict or natural disasters, or are evicted from their homes, they face significant risks of becoming homeless.²³ Divorced and widowed women in Bangladesh and Lebanon, for example, are reported to be living in dilapidated shacks in dangerous informal settlements and women fleeing violence in Kyrgyzstan and Papua New Guinea are left with few housing options.²⁴

41. The global economic crisis has had a distinct impact on women's homelessness. In Spain, for example, many single mothers were overindebted from home purchases. In many

¹⁷ Save the Children, "320,000 Children Homeless in Nepal" (1 May 2015), available from www.savethechildren.org/site/apps/nlnet/content2.aspx?c=8rKLIXMGIpI4E&b=9241341&ct=14637607.

¹⁸ According to the response to the questionnaire from the Norwegian Refugee Council, humanitarian aid often is allocated to male heads of households, thus further discriminating against women.

¹⁹ *The Economist*, "Race in Brazil" (28 January 2012), available from www.economist.com/node/21543494.

²⁰ National Coalition for the Homeless, "Who is homeless?" (2009), available from www.nationalhomeless.org/publications/facts/Whois.pdf.

²¹ Response to the questionnaire from Human Rights Watch, United States.

²² Response to the questionnaire from Monarch Housing Association.

²³ Response to the questionnaire from Human Rights Watch, United States.

²⁴ *Ibid.*

cases, former partners or husbands who shared mortgages refused to negotiate with banks for debt restructuring, relief or cancellation. When their homes were repossessed, they were left with significant debt, often living in insecure housing — at severe risk of homelessness.²⁵

42. Once homeless, women's experiences are acute. They are exposed to high rates of violence, including rape. In its inquiry into the situation of missing and murdered indigenous women in Canada, the Committee on the Elimination of Discrimination against Women recognized the link between Aboriginal women's poverty, homelessness and their disappearances and murder.²⁶

43. Homelessness among children and young people has reached critical proportions. Factors that push children into leaving home include parents' unemployment and poverty; family disintegration and parental abuse; parental drug and alcohol addictions; and being orphaned owing to HIV/AIDS, Ebola, armed conflict or natural disaster. Some families, unable to support children because of extreme poverty, abandon or send them to urban areas to work.²⁷ Children raised in residential institutions often find themselves homeless when they reach the age at which institutional care ceases.²⁸ Identified "pull" factors include "spatial freedom, financial independence, adventure, city glamour and street-based friendships or gangs".²⁹

44. Most families of street-connected children have experienced persistent discrimination, poverty and social exclusion. Street-connected children and young people face particular challenges, including the threat of being removed from their parents for neglect and put into orphanages or foster systems.³⁰ Lesbian, gay, bisexual, transgender and intersex young people are overrepresented in homeless populations in some countries and face additional stigmatization and social exclusion from their families and communities, and are more vulnerable to violence and more likely to be turned away from shelters.

45. Families with children are at increasing risk of homelessness as parents are deprived of the income necessary for housing and supply of affordable housing is depleted. In Ireland, families with children have become the fastest growing group within the homeless population.³¹ Those families risk losing their children to public authorities for failing to provide adequate housing.

46. People on the move, especially international migrants, refugees and internally displaced persons, are also at significant risk of homelessness. Those groups suffer multiple discrimination and numerous obstacles in securing temporary or permanent housing. In many countries, such as Denmark³² and the Netherlands, public shelters do not accommodate migrants or only accommodate them for limited periods of time.³³ Migrants are consequently forced to settle in slums, shacks and derelict or unfinished buildings;

²⁵ Ibid.

²⁶ See CEDAW/C/OP.8/CAN/1, paras. 112-118. **Error! Hyperlink reference not valid.**

²⁷ Response to the questionnaire from Safe Child Africa, United Kingdom.

²⁸ Response to the questionnaire from Ombudsman of the Republic of Moldova.

²⁹ See A/HRC/19/35, para. 19.

³⁰ Responses to the questionnaire from the organizations El Caracol AC of Mexico and Habitat for Humanity of Hungary.

³¹ Response to the questionnaire from the organization FOCUS, Ireland.

³² Response to the questionnaire from the Danish Institute for Human Rights.

³³ See case No. NLD 1/2014, in A/HRC/29/50.

migrant domestic workers have reported being forced to sleep in hallways, unprotected living spaces or closets of the homes in which they work.³⁴

47. Persons with disabilities are particularly vulnerable to homelessness. In all parts of the world, psychosocial disability can make it impossible for people to secure employment and earn a living to pay for housing.³⁵ At the same time, many States do not ensure access to the community-based support that people with disabilities need. In States where people with perceived psychosocial disabilities are institutionalized, the support or housing available upon their release are often inadequate.³⁶ Where deinstitutionalization has been implemented, States have failed to provide the necessary social support for housing in the community.

VI. The human rights framework for addressing homelessness and access to justice

A. State obligations

48. Homelessness lies at the extreme end of the spectrum of violations of the right to adequate housing. As such, States should treat homelessness with the highest level of urgency. Twenty-five years ago, the Committee on Economic, Social and Cultural Rights stated that a State party to the International Covenant on Economic, Social and Cultural Rights in which any significant number of individuals are deprived of basic shelter and housing is, *prima facie*, failing to discharge its obligations under the Covenant.³⁷ States are required to demonstrate that every effort has been made to use all resources that are at their disposition in an effort to satisfy, as a matter of priority, those minimum obligations.³⁸

49. State obligations in relation to homelessness have been clearly articulated and can be summarized as follows:

(a) States have an immediate obligation to adopt and implement strategies to eliminate homelessness. These strategies must contain clear goals and timelines and must set out the responsibilities of all levels of government and of other actors for the implementation of specific, time-bound measures, in consultation with and with participation by homeless people;³⁹

(b) States must combat discrimination, stigma and negative stereotyping of homeless people as a matter of urgency and provide legal protection from discrimination because of social and economic situation, which includes homelessness;⁴⁰

³⁴ Human Rights Watch, "Domestic plight: how Jordanian laws, officials, employers and recruiters fail abused migrant domestic workers" (27 September 2011), available from www.hrw.org/report/2011/09/27/domestic-plight/how-jordanian-laws-officials-employers-and-recruiters-fail-abused.

³⁵ Response to questionnaire from the Ombudsman of Albania.

³⁶ Response to the questionnaire from Human Rights Watch, United States.

³⁷ See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations, para. 10.

³⁸ *Ibid.*

³⁹ See Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para 12; concluding observations of the Committee on Economic, Social and Cultural Rights on Canada (E/C.12/CAN/CO/4 and E/C.12/CAN/CO/5).

⁴⁰ See Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 35.

(c) Evictions should never render individuals homeless. The prohibition of evictions leading to homelessness is immediate, absolute and is not subject to available resources;⁴¹

(d) Eviction without full consultation with those affected is a clear violation of international human rights. The obligation to explore every alternative to eviction, never to evict into homelessness and to ensure that residents are adequately consulted about resettlement plans should be applied under domestic law to both private and public land or property owners.⁴² States must take all appropriate measures, to the maximum of available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available;

(e) States have an immediate obligation to ensure that every decision or policy is consistent with the goal of the elimination of homelessness. Any decision that results in homelessness must be regarded as unacceptable and contrary to human rights. Policy and planning must apply the maximum of available resources, including unused or vacant lands and housing units, with a view to ensuring access to land and housing for marginalized groups;

(f) States have a firm legal obligation to regulate and engage with non-State actors so as to ensure that all of their actions and policies are in accordance with the right to adequate housing and the prevention and amelioration of homelessness. Regulation of private actors should include requirements on developers and investors to address homelessness and work in partnership to provide affordable housing in all developments;⁴³

(g) Access to effective remedies to homelessness must be ensured, including enforcement of obligations linked to the progressive realization of the right to housing and the elimination of homelessness.⁴⁴

B. Access to justice

50. It is of critical importance that courts and international human rights bodies engage more actively with the need for access to justice and protection of human rights of those who are homeless. Access to effective remedies was the subject of the first case under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights regarding foreclosure procedures in Spain, where an estimated 400,000 mortgage foreclosures took place between 2008 and 2012.⁴⁵ The Committee clarified that ensuring effective judicial remedies for the right to adequate housing is an immediate obligation of States, since “there cannot be a right without a remedy to protect it”, and held that the State had violated the obligation to provide effective remedies in the context of foreclosure procedures.

⁴¹ See Committee on Economic, Social and Cultural Rights, general comment No. 7. See also S. Wilson, “Breaking the tie: evictions from private land, homelessness and a new normality”, *South African Law Journal*, volume 126, No. 2 (2009).

⁴² See, for example, *City of Johannesburg Metropolitan Municipality v. Blue Moonlight Properties 39 (Pty) Ltd and Another* (CCT 37/11) [2011] ZACC 33 (1 December 2011).

⁴³ See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States Parties’ obligations.

⁴⁴ See concluding observations of the Committee on Economic, Social and Cultural Rights on Canada (E/C.12/CAN/CO/4 and E/C.12/CAN/CO/5).

⁴⁵ See communication No. 2/2014, *I.D.G. v. Spain*, Views adopted by the Committee on Economic, Social and Cultural Rights on 17 June 2015. In its response to the questionnaire, the organization Arrels Fundació estimates that, for every 100,000 persons, 71 are homeless in Spain.

51. Other treaty monitoring bodies and human rights mechanisms have articulated legal standards with respect to remedies in the context of homelessness. In *A.T. v. Hungary*, the Committee on the Elimination of Discrimination against Women addressed the link between violence against women and homelessness, recommending as part of an effective remedy to “ensure that A. T. is given a safe home in which to live with her children”.⁴⁶

52. In its 2014 concluding observations on the United States, the Human Rights Committee noted that criminalization of homeless people raises concerns of discrimination and cruel, inhuman or degrading treatment.⁴⁷ It recommended that the federal Government engage with State and local authorities to abolish discriminatory laws and policies criminalizing homelessness; intensify efforts to find solutions for people who are homeless; and offer incentives for decriminalization to local authorities.. The federal Government recently announced that it is implementing the recommendations, including by linking access to federal housing grants to the repeal of local laws that criminalize homelessness.

53. The Human Rights Committee has also acknowledged that widespread homelessness leads to serious health consequences and death and has stated that positive measures are required under article 6 of the International Covenant on Civil and Political Rights on the right to life to address homelessness.⁴⁸ The Committee has considered homelessness in the context of forced evictions, finding that failure to consider that an eviction might result in homelessness constitutes an arbitrary interference with the home.⁴⁹

54. Regional human rights systems have also, to various extents, offered avenues for effective remedies for those who are homeless. The revised European Social Charter, in its article 31, includes the obligation “to prevent and reduce homelessness with a view to its gradual elimination”. In *European Federation of National Organisations working with the Homeless (FEANTSA) v. France*,⁵⁰ the European Social Rights Committee held that “the measures currently in place to reduce the number of homeless are insufficient, both in quantitative and qualitative terms”, and constituted a violation of article 31.2 of the Charter.

55. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have developed important jurisprudence recognizing the obligation of the State to protect the special relationship between indigenous peoples and land in addressing violations in which, for example, members of indigenous communities have been “violently forced from their homes and traditional lands into a situation of ongoing displacement”.⁵¹ In addition, in considering the plight of street-connected children, the Court has explained that the right to life requires States to take positive measures to ensure access to the conditions needed to lead a dignified life, recognizing that the right to life belongs “at the same time to the domain of civil and political rights as well as economic, social and cultural rights”.⁵²

56. The African Commission on Human and Peoples’ Rights has affirmed that the right to adequate housing is implied in the African Charter by its articles 14 on the right to property, 16 on the right to highest attainable standard of mental and physical health and

⁴⁶ See communication No. 2/2003, *A.T. v. Hungary*, Views adopted by the Committee on the Elimination of Discrimination against Women on 26 January 2005, para. 9.

⁴⁷ See CCPR/C/USA/CO/4.

⁴⁸ See, for example, CCPR/C/79/Add.105, para. 12.

⁴⁹ See communication No. 2073/2011, *Liliana Assenova Naidenova et al. v. Bulgaria*, Views adopted on 30 October 2012, para. 14.7.

⁵⁰ Complaint 39/2006 (2007).

⁵¹ See Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, judgement of 15 June 2015, para. 186. Available from www.corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf

⁵² See Inter-American Court of Human Rights, *Villagran-Morales et al. v. Guatemala*, judgement of 19 November 1999. Available from www.corteidh.or.cr/docs/casos/articulos/seriec_63_ing.pdf.

18 (1) on protection accorded to the family.⁵³ It considers that forced evictions leading to homelessness are contrary to the Charter, and has urged all States to report on measures taken to address homelessness and to appoint an independent national body to monitor State compliance with the right to adequate housing.⁵⁴

57. Important advances have been made in domestic jurisdictions recognizing that homelessness violates a range of human rights. The Grundgesetz (Basic Law) of Germany has been interpreted to ensure that adequate and humane housing is a component of a minimum standard of living in line with human dignity.⁵⁵

58. The Supreme Court of India has affirmed that the right to life “includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life, such as adequate nutrition, clothing and shelter”.⁵⁶ The High Court of New Delhi initiated a case on its own motion to consider whether the demolition of a temporary homeless shelter in preparation for the 2010 Commonwealth Games had violated the right to life. The loss of the shelter resulted in the death of one former resident. The Court ordered the Delhi government to rebuild the shelter and to stop evicting homeless persons in winter.⁵⁷

59. Claims brought by homeless people before domestic courts have led to significant advances in many jurisdictions. In Argentina, homeless people have the right to assistance, but it is claimed on a case-by-case basis before the court. For example, in *Q. C. S. Y. v. Government of the Autonomous City of Buenos Aires*, the National Supreme Court ordered the Buenos Aires government to provide adequate shelter for a homeless mother and her disabled son, noting that there should be a minimum guarantee of access to housing for those facing situations of extreme vulnerability.

60. The Colombia Constitutional Court ordered the Municipality of Dosquebradas and the Department of Risaralda to design a pilot programme for homeless people in line with constitutional requirements and relevant experiences of other municipalities. The Court also called on all relevant authorities to immediately prepare a national public policy for homeless people in line with requirements of the national law about the rights of homeless people.

61. The Constitutional Court of South Africa ordered the Government to devise and implement a comprehensive and coordinated programme to realize the right to adequate housing that prioritizes those in most urgent need.⁵⁸ In the context of forced evictions, the Court has implemented a number of protections for those threatened with homelessness, including imposing on all levels of government a duty to meaningfully engage with

⁵³ See resolution 231 of the African Commission on Human and People’s Rights, on the right to adequate housing and protection from forced evictions, available from www.achpr.org/sessions/52nd/resolutions/231.

⁵⁴ See African Commission on Human and People’s Rights, Principles and Guidelines for the Implementation of Economic, Social and Cultural Rights, available from www.achpr.org/files/instruments/economic-social-cultural/achpr_instr_guide_draft_esc_rights_eng.pdf.

⁵⁵ Response to the questionnaire from Germany.

⁵⁶ See Supreme Court of India, *Francis Coralie Mullin v. The Administrator*, judgement dated 13 January 1981, para. 6.

⁵⁷ Urban Rights Forum: With the Homeless, *The Trajectory of a Struggle* (2010), available from http://hln.org.in/documents/SAM-BKS_The_Trajectory_of_a_Struggle.pdf.

⁵⁸ See *Government of the Republic of South Africa et al v. Grootboom et al*, case No. CCT11/00 of October 2000.

communities involved in resettlement and recognizing the obligations of private landlords to ensure that no one is evicted into homelessness.⁵⁹

62. In many countries, social movements are incorporating legal strategies into broader political strategies to challenge homelessness and affirm the right to adequate housing. Abahlali baseMjondolo, the South African shack-dwellers' movement, and other organizations in South Africa have developed approaches to social mobilization linked to legal strategies to claim rights, without losing sight of the fundamentally political nature of the struggle for adequate housing.⁶⁰

63. In Argentina, the non-governmental organization Centro de Estudios Legales y Sociales has integrated test-case litigation to advance the right to adequate housing for homeless people with political initiatives, in order to change the way land, property and housing is distributed and ensure broader access to justice. The newly adopted Law for the Province of Buenos Aires on Access to Dignified Habitat affirms a number of guiding principles, including the right to the city, the social function of property, meaningful democratic participation and equitable sharing of benefits of urbanization.

64. The Special Rapporteur is encouraged by the proliferation of locally based initiatives to create more robust human rights frameworks, programmes, policies and laws, whether they take the form of new constitutional rights, charters on the right to the city/human rights city, local ordinances or enhanced mandates for human rights institutions and ombudspersons. Much more is needed, however. The implementation of a human rights framework for governance at all levels is the most critical component of any strategy for the elimination of homelessness.

VII. Metrics of homelessness and human rights accountability

65. Measuring the extent of homelessness among different groups helps to assess priorities, ensure effective design and implementation of policy responses and determine whether States are meeting their human rights obligations. According to the Committee on Economic, Social and Cultural Rights, States have an obligation to measure the extent of homelessness, using data disaggregated by gender, race and other relevant characteristics, and to establish effective means of monitoring progress.⁶¹

66. Beyond national measures of homelessness, there is also a need for global indicators. Addressing homelessness should be a central part of global development goals. While the Sustainable Development Goals omit any explicit reference to homelessness, target 11.1 of the Goals commits States to ensure access for all to adequate, safe and affordable housing and basic services and upgrading slums by 2030. Measuring and committing to reduce and eliminate homelessness with clear benchmarks and timelines will be critical to the successful realization of this target.

67. There are, however, serious challenges in measuring homelessness, both within States and globally, that need to be addressed. It has proven difficult to secure accurate and comparable data from all States in order to develop reliable global data. The Statistics Division of the Department of Economic and Social Affairs has noted that data on the

⁵⁹ See *City of Johannesburg Metropolitan Municipality v. Blue Moonlight Properties 39 (Pty) Ltd and Another*, case No. CCT 37/11, paras. 46, 54 and 57.

⁶⁰ See Jackie Dugard et al., "Rights-compromised or rights-savvy? The use of rights-based strategies to advance socio-economic struggles by Abahlali baseMjondolo, the South African shack-dwellers' movement", *Social and Economic Rights in Theory and Practice* (2014).

⁶¹ See the Committee's general comment No. 4 on the right to adequate housing.

number of homeless households is scarce in all regions.⁶² Initiatives to count the number of homeless people have often emerged organically from local communities and address variable local conditions and challenges in different ways. Local governments, service providers, ombudspersons and human rights institutions can play important roles in ensuring that data are accurate and inclusive. This, however, makes it challenging to develop common measures across cities and internationally.

68. Some States have also been reluctant to collect and provide reliable data, perceiving it to be contrary to their interests, particularly if they are seeking to attract development or tourism or to host mega events. Data collected by governments need to be supplemented by information that may only be available to non-governmental organizations and community-based organizations working directly with homeless populations.

69. The Institute of Global Homelessness has brought together researchers and civil society organizations working on homelessness from around the world to take up these challenges, urging a renewed commitment to achieving the most useful global measures through the adoption of a standard approach based on collaboration with governments.⁶³ The Special Rapporteur is hopeful that collaborative initiatives such as this will provide a foundation for significant advances in understanding global patterns and challenges in relation to homelessness and enhanced accountability to the obligation to eliminate it.

70. While improved statistical data will be important to guide public policy and to hold governments accountable, adjustments will need to be made for the inevitable limitations, omissions and possible distortions in available data. Challenges associated with measuring homelessness should not be allowed to encourage policies that respond only to the visible and more easily measured forms of homelessness. Homelessness among single men living on the streets or using emergency shelters is more easily measured. It is more difficult to measure homelessness among women, children and young people living temporarily with family or friends, or among those most marginalized and precariously housed within informal settlements, who may be altogether left out of census or data collection. It is equally difficult to identify and measure homelessness among indigenous households or communities displaced from ancestral lands. Members of ethnic minorities may not wish to be identified by authorities. In Kenya, for instance, many of the people who become homeless because of ethnic violence did not want to be identified for fear of reprisal.⁶⁴ Policy responses and assessments of progress in eliminating homelessness must make allowances for less visible dimensions of homelessness that may not have been measured.

71. It is also important to supplement data on services used by homeless people with estimates of those who are homeless but do not access services. When homelessness is assessed by counting the number of people sleeping in shelters or using services, improvements in those services may appear to increase the number of homeless, when in fact lower numbers simply reflect some improvements in meeting emergency needs. On the other hand, some cities have denied services as a punitive means of attempting to reduce the numbers of homeless in their jurisdiction. In those cases, lower numbers of people in homeless shelters is evidence of a serious violation of human rights. It is always important, therefore, to look behind numbers. Policies and accountability measures based exclusively on raw numbers are inadequate or incomplete from a human rights standpoint. Raw

⁶² See <http://unstats.un.org/unsd/demographic/products/dyb/techreport/hhchar.pdf>, para. 68.

⁶³ See Institute of Global Homelessness, "A global framework for understanding and measuring homelessness" (2015), available from http://works.bepress.com/dennis_culhane/188.

⁶⁴ See V. Metcalfe et al., *Sanctuary in the city? Urban displacement and vulnerability in Nairobi* (London, 2011), available from www.rescue.org/sites/default/files/resource-file/Sanctuary%20in%20the%20City.pdf.

numbers may perpetuate exclusion and invisibility and fail to identify changes in the nature or experience of homelessness.

72. For this reason, the Special Rapporteur underlines the critical importance of qualitative evidence, including, for example, oral testimony, photographs or videos. A human rights-based measurement of homelessness should focus on prevention and on addressing underlying causes, and qualitative information capturing actual experiences often reveals more about how to prevent or solve it than numbers alone.⁶⁵ It is also vital to understand the trajectories into and out of homelessness, with longitudinal analysis of how people become homeless, how long they are homeless and how they escape from it to supplement point-in-time counts.

73. A human rights approach to effective measurement must involve genuine consultation with stakeholders. For some groups, statistical invisibility or being excluded from a census is experienced as marginalization and likely to lead to neglected needs in programmes and legislation. For other groups, however, such as street-connected young people or irregular migrants, being identified by government authorities may be threatening. Homeless people are best placed to ensure that methods of measurement are accurate and inclusive and at the same time sensitive to their circumstances.

VIII. Strategic policy responses to homelessness

74. The Special Rapporteur's consultations suggested that, while effective policy responses depend on particular circumstances, effective strategies must always be multi-pronged, engage a range of policies and programmes and address simultaneously social exclusion and housing deprivation. Most importantly, strategies must be led by stakeholders, combining social mobilization with legislative and policy reform.

75. The Committee on Economic, Social and Cultural Rights has focused on the need for comprehensive housing strategies to address homelessness, framed around the right to housing and ensuring monitoring and accountability with goals, timelines and complaints procedures. Similarly, in the case of street children, the United Nations High Commissioner for Human Rights advocates a holistic approach that recognizes rights as interdependent and interconnected, through a coordinated approach across government departments and with the involvement of family and community.⁶⁶

76. Housing First has recently emerged as a dominant model for responses to homelessness in countries such as Belgium, Denmark, Hungary, the Netherlands, Portugal, and the United Kingdom of Great Britain and Northern Ireland. The model is straightforward, providing chronically homeless people, for example, those with psychosocial disabilities, with housing and support as needed.⁶⁷ There are obvious benefits of keeping people in their communities as opposed to providing treatment services without housing, and this model offers easily measured outcomes. At the same time, concerns have been raised that Housing First may not serve as a generalized model as it tends to focus on

⁶⁵ Institute of Global Homelessness, "A global framework for understanding and measuring homelessness" (2015), available from http://works.bepress.com/dennis_culhane/188/.

⁶⁶ See A/HRC/19/35, para. 30.

⁶⁷ Lars Benjaminsen, "Policy review update: results from the Housing First-based Danish homelessness strategy", *European Journal of Homelessness*, vol. 7, No. 2 (December 2013), available from www.feantsaresearch.org/IMG/pdf/lb_review.pdf.

visible forms of homelessness and does not address systemic causes of homelessness or ensure rehabilitation and production of affordable housing.⁶⁸

77. National homelessness strategies have relied on legislation to clarify government obligations. Scotland enacted the Homelessness etc. (Scotland) Act in 2003, which includes the commitment to make housing a legal right by 2012. In keeping with this, an order was passed by the Scottish Parliament in 2012 that ensures that all individuals assessed to be “unintentionally homeless” have a right to settled accommodation.⁶⁹

78. In many countries, national human rights institutions are able to investigate allegations of human rights violations related to homelessness and make recommendations to relevant authorities to design public policy and to remedy those violations. For the first time, the Human Rights Commission of Mexico City held a public hearing with groups of homeless people, then issued a report that focused on their human rights situation, including discrimination, criminalization and other human rights issues.⁷⁰

79. The Norwegian Refugee Council has canvassed a number of housing alternatives to prevent and address homelessness for internally displaced persons. Options include incremental housing — providing land or a basic house for the recipient to upgrade over time; housing purchase certificates; social housing; the transfer of public buildings to private ownership; rental support; incremental tenure — starting from administrative recognition then legal recognition, developmental recognition to establishment of towns or districts; neighbourhood upgrades; and support for municipalities.⁷¹

80. Homeless people have begun to reassert their identity through human rights claims through both social movements and legal action. In South Africa, the shack-dwellers’ movement, Abahlali, has emerged as a vibrant social movement, claiming the right to housing through both legal and political means. In Uganda, the Uganda Network on Law, Ethics and HIV/AIDS provides free legal representation for homeless widows dispossessed of their homes and properties as a result of discriminatory property and inheritance laws.⁷² In the Simon Community in northern Belfast, homeless people, with the assistance of the organization Participation and the Practice of Rights, launched the Homelessness Action Charter to promote the human rights of homeless people.⁷³ In Canada, homeless people and supportive organizations challenged as unconstitutional national and subnational governments’ failure to effectively address homelessness,⁷⁴ while simultaneously lobbying for legislation⁷⁵ to create a national homelessness and housing strategy. In the United States, homeless peoples’ organizations have systematically and successfully challenged laws and policies that criminalize homelessness and have lobbied for federal, State and municipal housing strategies. In El Salvador, local community members formed a national

⁶⁸ Response to questionnaire from the Danish Institute for Human Rights.

⁶⁹ See www.gov.scot/News/Releases/2012/11/tackling-homelessness21112012.

⁷⁰ Comisión de Derechos Humanos del Distrito Federal, *Informe especial: Situación de los derechos humanos de las poblaciones callejeras en el Distrito Federal 2012-2013* (Mexico City, 2014), available in Spanish from <http://cdhdfbeta.cdhdf.org.mx/wp-content/uploads/2014/09/poblaciones-callejeras-integrado-imprenta.pdf>. Executive summary in English.

⁷¹ See Norwegian Refugee Council et al., “Home sweet home: housing practices and tools that support durable solutions for urban IDPs” (Geneva, Internal Displacement Monitoring Centre, March 2015), pp. 25-51.

⁷² See www.uganet.org/site/women-property-rights.

⁷³ Response to the questionnaire from the organization Participation and the Practice of Rights, United Kingdom.

⁷⁴ See *Tanudjaja v. Canada (Attorney General)*, 2014 ONCA 852.

⁷⁵ See Bill C-400, an act to ensure secure, adequate, accessible and affordable housing, available from <https://openparliament.ca/bills/41-1/C-400/>.

commission for residents to advocate for housing rights alongside other civil society organizations.⁷⁶

81. There are diverse models for ensuring participation of stakeholders in strategies to address homelessness. Brazil, for example, has created a participatory model for social policy that relies on policy councils of stakeholders. In Munich, Germany, special units for the prevention of homelessness have provided support in preventing evictions or repossessions.⁷⁷ In Europe, FEANTSA has organized and advanced rights claims on behalf of homeless people in a wide range of legal and political forums.

82. There is no universal policy or legislative solution to homelessness. It must be addressed in multiple ways, engaging with the structural causes of homelessness in particular circumstances. Any chosen policy must address issues faced by different groups and support individuals in their own personal struggles. The FEANTSA survey of strategies finds that effective strategies must be evidence-based, comprehensive, multi-dimensional, rights-based, participatory, based on statutes or legislation, sustainable, needs-based and bottom-up.

83. All levels of government should design and implement policies, laws and strategies to prevent and remedy homelessness. Failure to do so reflects that homelessness has neither been recognized nor addressed as a violation of human rights. What is lacking at all levels is a shared commitment to ensuring the enjoyment of the right to adequate housing — and related rights such as life and health. As the Consortium for Street Children has stated, “the greatest challenge for all street-connected children is being identified and treated as a rights holder”.⁷⁸

84. Since ensuring the enjoyment of human rights is a firm legal responsibility of all levels of government, policymakers can be compelled to incorporate human rights into their laws, policies and programmes, such as: consulting with homeless people throughout the policy development and implementation process; incorporating measureable goals and timelines into strategies; including monitoring and review mechanisms to ensure successful outcomes; and providing homeless people with a mechanism through which to claim their rights and with access to remedies. These are essential requirements for there to be meaningful inclusion of homeless people in the human family, restoring to them dignity, respect and protection under the rule of law.

IX. Conclusions and recommendations

85. Widespread homelessness is evidence of the failure of States to protect and ensure the human rights of the most vulnerable populations. It is occurring in all countries, regardless of the phase of development of their economic or governance systems, and it has been occurring with impunity. The nature and scope of homelessness globally suggests society’s lack of compassion for the full scale of deprivation and loss of dignity associated with being homeless. It is a phenomenon requiring urgent and immediate action by the international community and by all States.

86. Homelessness is one of the least examined consequences of unabated inequality, unfair distribution of land and property and poverty occurring on a global scale. It is a result of State acquiescence to real estate speculation and unregulated markets — a

⁷⁶ Response to the questionnaire from the organization FUNDASAL, El Salvador.

⁷⁷ See European Commission, “Homelessness during the crisis”, Research note 8/2011 (2011), p. 16.

⁷⁸ Response to the questionnaire from the organization Consortium for Street Children.

result of treating housing as a commodity rather than as a human right. It is rooted in a global privileging of wealth and power, and scapegoating and scorning of those who do not have a home.

87. Homelessness disproportionately affects particular groups, including women, young people, children, indigenous peoples, people with disabilities, migrants and refugees, the working poor, and lesbian, gay, bisexual and transgender people, each in different ways, but with common structural causes. These include: (a) the retreat by all levels of government from social protection and social housing and the privatization of services, infrastructure, housing and public space; (b) the abandonment of the social function of land and housing; (c) the failure to address growing inequalities in income, wealth and access to land and property; (d) the adoption of fiscal and development policies that support deregulation and real estate speculation and prevent the development of affordable housing options; and (e), in the face of urbanization, the marginalization and mistreatment of those who are most precariously housed in informal settlements, living in temporary overcrowded structures, without access to water, sanitation or other basic services and living under the constant threat of eviction.

88. Instead of being treated as a group of rights bearers whose rights have been systematically violated, homeless people have become a stigmatized group subject to criminalization, discrimination and social exclusion. To be homeless is to experience acts of violence, a shortened life span and ill-health and to be criminalized for survival strategies for eating or sleeping in public space. Homeless people are rendered voiceless and invisible, banished to the peripheries of cities and towns, out of sight. Their humanity and dignity are rarely considered in legislation, public policies and strategies.

89. Failures to measure and document homelessness effectively, including in its less visible forms and in its more qualitative dimensions, have contributed to the lack of State-led or global responses. The absence of any reference to homelessness in development goals attests to the continued marginalization of homeless people.

90. From a human rights perspective, State obligations in relation to homelessness are well established and have been clearly articulated. These include the following immediate obligations of States: (a) to adopt and implement strategies to eliminate homelessness, with clear goals, targets and timelines; (b) to eliminate the practice of forced eviction, especially where it will lead to homelessness; (c) to combat and prohibit in law discrimination, stigma and negative stereotyping of homeless people; (d) to ensure access to legal remedies for violations of rights, including for the failure of States to take positive measures to address homelessness; and (e) to regulate third-party actors so that their actions are consistent with the elimination of homelessness and do not discriminate either directly or indirectly against homeless people.

91. In line with the present conclusions, the Special Rapporteur offers the following recommendations to States:

(a) All States must commit to eliminating homelessness by 2030 or earlier if possible, in a manner that upholds international human rights and in keeping with target 11.1 of the Sustainable Development Goals;

(b) All States must develop and implement, on an immediate basis, coordinated rights-based strategies to prevent and eliminate homelessness. Those strategies must include measureable goals and timelines; be developed and implemented in consultation and collaboratively with stakeholders; make explicit reference to international human rights law, including the right to adequate housing and non-discrimination; include monitoring and review mechanisms to ensure

progress; and incorporate claiming mechanisms for alleged violations of human rights, including failures of States to adequately implement required strategies;

(c) Homelessness strategies must be cross-sectoral, clearly allocate and coordinate responsibilities of all levels of government and address the structural causes of homelessness, including those that are particular to the needs of marginalized or vulnerable groups;

(d) More reliable measures of homelessness, inclusive of less visible forms of homelessness and its qualitative dimensions, must be developed. Data collection methodologies should combine longitudinal analysis of homelessness with point-in-time counts. Beyond adopting definitions and methodologies suited to local circumstances, States and subnational governments should apply internationally agreed upon definitions, methodologies and indicators to permit a more objective assessment of progress made, including with respect to target 11.1 of the Sustainable Development Goals;

(e) Any and all laws or measures that criminalize, impose fines on or restrict homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces, must be immediately repealed;

(f) Homeless people must be recognized as a protected group in all relevant domestic anti-discrimination and hate-crime laws, including where relevant in national Constitutions, national and subnational human rights legislation and in city charters;

(g) A careful review of existing legislation and policies must be undertaken to ensure that those that include discriminatory intent or effect against people who are homeless are repealed or amended, in compliance with international human rights law. Funding or transfer payments for local programmes should be made conditional on the elimination of all laws that criminalize or discriminate against homeless persons;

(h) Homeless people must be ensured access to hearings and effective remedies for violations of their rights, including as a result of the failure of States to take reasonable measures within the maximum available resources to eliminate homelessness. Class or group actions should be facilitated where possible and effective remedies should be available in multiple forums, including courts, administrative tribunals and national human rights institutions;

(i) National and local governments must re-engage and recommit to their role of providing social protection and ensuring access to affordable housing for marginalized and vulnerable groups, reaffirming that housing is a human right rather than a commodity. Subnational governments must have access to adequate resources to meet their allocated responsibilities;

(j) Any evictions that may result in homelessness, including those intended to render homeless people less visible, such as to promote tourism or facilitate mega events, must be recognized under domestic law as gross violations of human rights and be immediately stopped. Forced evictions must not occur without prior meaningful consultation with affected groups, an exploration of all alternatives, including in situ upgrading, and the implementation of agreed-upon resettlement options for those affected;

(k) Special attention must be directed to homelessness among indigenous peoples caused by displacement from land and resources and the destruction of cultural identity. Indigenous peoples should be provided with resources to implement

programmes to address homelessness in both urban and rural contexts, consistent with the Declaration on the Rights of Indigenous Peoples.

92. The Special Rapporteur offers the following recommendations to other actors

(a) The media, including journalists, editorial boards, producers and owners, must ensure that homeless people are never depicted in a discriminatory or hateful manner. Oversight and regulation in this regard is needed;

(b) Humanitarian assistance must not be conditional on place of residence prior to conflict or natural disaster. Property titles or other documents that are often not available to people who are homeless should not be a barrier to receiving emergency and longer-term humanitarian assistance;

(c) Lawyers and advocates must work closely with homeless people and their representatives to ensure that homelessness is addressed as a human rights violation through any available avenues. The judiciary must develop its capacity and commitment to adjudicating these claims, including where the claims seek a remedy requiring positive measures. In this context, States must refrain from adopting positions in litigation that are contrary to international human rights law.
