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促进和保护所有人权——公民权利、政治权利、  
经济、社会及文化权利，包括发展权

## 访问大韩民国

## 适当生活水准权所含适当住房及在此方面不受歧视权问题特别报告员的报告\*\*\*

## 概要

2018年5月14日至23日，适当生活水准权所含适当住房及在此方面不受歧视权问题特别报告员 Leilani Farha 应大韩民国政府邀请对该国进行了正式访问。特别报告员的目标是查明该国在实现适当住房权方面的积极成果和现有挑战。在此框架内，特别报告员审议了弱势群体在何种程度上享有住房权。

特别报告员在报告中概述了大韩民国与适当住房权有关的法律框架及住房条件，包括可获得性、可负担性、可居住性和保有权保障。特别报告员讨论了一些令人关注的特定问题，例如不合标准的住房、非正式住区中的生活条件、无家可归现象、金融化问题以及城市改造和重建对适当住房权的影响，包括在这一背景下发生的强迫迁离现象。

特别报告员分析了妇女、青年和老人、移民工人、残疾人及男女同性恋者、双性恋者和跨性别者享有住房权的情况，并讨论了居民能够在何种程度上申索住房权。最后，报告就如何能够在法律、法规、政策和行政做法中进一步加强适当住房权提出了一系列建议。

\* 本报告概要以所有正式语文分发。报告本身载于概要附件，仅以提交语文分发。

\*\* 本报告逾期提交，以纳入最新信息。



## Annex

### **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, on her visit to the Republic of Korea**

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## I. Introduction

1. 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, visited the Republic of Korea from 14 to 23 May 2018, at the invitation of the Government. The purpose of her visit was to identify positive outcomes and existing challenges for the realization of the right to adequate housing in the country. In that context, the Special Rapporteur considered to what extent vulnerable groups are enjoying the right to housing and the right to non-discrimination in that context.

2. The Special Rapporteur thanks the Government of the Republic of Korea for its invitation and its full cooperation during the visit. She also thanks all her interlocutors, including senior government officials, municipal officials of Seoul and Busan, judges, lawyers, the National Human Rights Commission and civil society representatives. A special warm thanks is extended to the individuals and families living in various degrees of inadequate housing or in situations of homelessness who shared their personal experiences with her.

3. The Special Rapporteur had fruitful meetings with the Ministry of Land, Infrastructure and Transport, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Health and Welfare, the Ministry of Employment and Labour and the Ministry of Gender Equality and Family. She also met with the Supreme Court, the National Human Rights Commission, the National Police Agency and relevant State-owned enterprises, such as the Korea Land and Housing Corporation, the Korea Housing Finance Corporation and the Korea Railroad Corporation (Korail). She was grateful for having the opportunity to meet with the National Pension Service, the Korea Research Institute for Human Settlements and the Korean Association of Realtors.

4. The Republic of Korea has in many ways embraced the right to adequate housing and has made substantial efforts towards its progressive realization. The city of Seoul and its Mayor have shown particular commitment to human rights, including the right to housing, and have joined the Shift, an international global movement of diverse stakeholders who are reclaiming and realizing the right to adequate housing.

5. According to the 2017 census, the population of the Republic of Korea has reached 51.4 million people, nearly half (25.5 million people) of whom live in the Seoul metropolitan area. In the past four decades, urbanization has taken hold, with 82.7 per cent of the population currently living in towns and cities.

6. The Republic of Korea is one of the fastest ageing societies in the world owing to increased life expectancy – currently at 82.5 years – and a dramatic fall in the fertility rate, which reached an all-time low of 1.05 children per female adult in 2017.<sup>1</sup> At the same time, extended family and multigenerational living arrangements are on the decline, and the number of single and two-person households has increased significantly. In 2000, only 34 per cent of all households were one- and two-person households, whereas by 2017 they accounted for 55.3 per cent. Households are also increasingly female-headed – their number doubled from 15.7 per cent in 1990 to 30.6 per cent in 2017 and is expected to continue to increase.<sup>2</sup>

7. In the past 50 years, the Republic of Korea has experienced massive and relatively rapid economic growth, having gone from a developing country to the eleventh largest economy in the world. Over the past decade, however, the rate of economic growth has slowed, and income distribution is becoming more concentrated, affecting the accessibility of housing for many.

<sup>1</sup> Statistics Korea, “2017 population and housing census” and “Social indicators in 2017”. Available at <http://kostat.go.kr>.

<sup>2</sup> Ibid.

8. The impressive economic growth resulted in an overall decline in poverty, although 13.1 per cent of the population still lives below the Organization for Economic Cooperation and Development (OECD) poverty line.<sup>3</sup> The Republic of Korea has the highest old-age poverty rate of the OECD countries. Nearly half (45.7 per cent) of the population above the age of 65 years lives in relative poverty and is therefore particularly vulnerable to inadequate housing conditions.<sup>4</sup>

## II. Legal framework

9. The Republic of Korea has ratified a number of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

10. The Republic of Korea has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which would increase access to justice for individuals, groups and non-governmental organizations through an international complaints procedure.

11. According to article 6 of the Constitution of the Republic of Korea, treaties that have been “duly concluded and promulgated” are equal in effect to domestic laws. International human rights treaties can therefore be relied on by courts. Although the Constitution does not include an explicit “right to adequate housing”, it specifies, in article 34 (1), that “all citizens shall be entitled to a life worthy of a human being” and, in article 35 (3), that “the State shall endeavour to ensure comfortable housing for all citizens through housing development policies and the like”. Pursuant to article 23 (3), fair compensation shall be provided for any expropriation or restriction of property rights on the basis of public needs.

12. The right to housing and its many dimensions is found in legislation. In article 2 of the Framework Act on Residence (2015), it states that “people have the right to live a decent residential life in a pleasant and stable dwelling environment, protected against any physical or social danger”.<sup>5</sup> It further specifies that people’s housing expenses shall be maintained at affordable levels through housing supply and subsidization according to income levels and life cycle, and that housing standards for low-income and other disadvantaged groups shall be elevated by giving them priority in supply and expense subsidization. In addition, it specifies that support shall be provided to ensure that the housing needs of persons with disabilities, older persons and other disadvantaged groups are met. There are also specific laws targeting those most in need, such as the Act on the Support for Housing Disadvantaged Persons including Persons with Disabilities and the Aged, the Housing Benefits Act and the Act on Support for Welfare and Self-Reliance of the Homeless.<sup>6</sup>

## III. Right to adequate housing

13. According to international human rights law, States have an obligation to progressively realize the right to adequate housing using maximum available resources. The right to adequate housing should not be interpreted in a narrow or restrictive sense, such as merely having a roof over one’s head; rather, it should be seen as the right to live

<sup>3</sup> According to 2015 data of the Organization for Economic Cooperation and Development (OECD). Available at <https://stats.oecd.org/index.aspx?queryid=58290>.

<sup>4</sup> Ibid.

<sup>5</sup> Act No. 13378 of 22 June 2015, as amended by Act No. 15120 of 28 November 2017.

<sup>6</sup> All relevant national laws are available in English and Korean at [elaw.klri.re.kr](http://elaw.klri.re.kr).

somewhere in security, peace and dignity. The right to adequate housing encompasses: (a) legal security of tenure; (b) availability of services, materials and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.<sup>7</sup>

14. The Republic of Korea has made many efforts towards the progressive realization of the right to adequate housing. The establishment of public housing programmes substantially addressed the housing shortage in the early 2000s, and overall housing conditions have improved significantly over the past decades. Enhancing housing affordability and quality for low-income households and disadvantaged groups has, however, become a pressing issue.

15. Under international human rights law, States are required to adopt a comprehensive national housing strategy or plan.<sup>8</sup> While the Republic of Korea has adopted the Framework Act on Residence, it is unclear how the many housing-related laws and programmes interact and whether, taken together, they will lead to the effective realization of the right to adequate housing, Goal 11 of the Sustainable Development Goals and the commitments made under the New Urban Agenda.

## A. Overview of housing conditions

16. After the Korean war (1950–1953), the Republic of Korea faced a significant housing shortage. Seoul still had many informal settlements in the early 1960s, formed by those who had lost their homes in the war, refugees and people from rural areas settling in the city. In 1966, Seoul had a population of 3.8 million, with approximately 720,000 households, but only 360,000 homes were available in the city. The country, still under military rule, embarked on what can be called a “bulldozer” approach to “slum” clearance that did not comply with human rights-based approaches to the upgrading of informal settlements (see A/73/310/Rev.1). It was at that time that the first large-scale apartment complexes were erected in Seoul.

### Accessibility

17. In 1981, the Government established the national housing fund and began to provide public lands for the large-scale development of housing by private and public sector developers. Several years later, the Government went on a massive construction drive to create 2 million units in a short period of time, increasing construction from about 200,000–250,000 units per annum during the 1980s to more than 500,000 units per year during the early 1990s.<sup>9</sup> Public housing stock for rent continued to increase, from about 825,500 units in 2007 to 1.36 million in 2016.<sup>10</sup> The Special Rapporteur welcomes the fact that the current Government is continuing its strong commitment to investment in public housing at a time when such investment is under threat in many countries. The Government aims to increase the ratio of public rental housing units to total housing units from 6.7 per cent to 9 per cent by 2022 and to supply 130,000 additional public housing units every year.

18. In 2007, the Government adopted a housing support policy that designated 15 per cent of public rental housing for vulnerable groups. However, between January 2013 and July 2017, only 3.5 per cent of such units were provided to persons considered vulnerable.<sup>11</sup>

### Habitability

19. In the 1980s, most Koreans lived in detached houses, but the current most typical form of housing is the apartment complex, representing 60 per cent of all housing units.

<sup>7</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing.

<sup>8</sup> Ibid., para. 12; and Act No. 13378 of 22 June 2015, art. 5.

<sup>9</sup> Kyung-Hwan Kim and Miseon Park, “Housing policy in the Republic of Korea”, Asian Development Bank Institute, working paper series No. 570, April 2016, pp. 3–4.

<sup>10</sup> Statistics provided to the Special Rapporteur by the Ministry of Land, Infrastructure and Transport.

<sup>11</sup> According to data submitted by the Ministry of Land, Infrastructure and Transport in response to a request by a member of the National Assembly, Yoon So-ha.

Only 46.5 per cent of all housing units in the country are older than 20 years, as the prevailing policy has been to replace old housing stock with larger and taller apartment complexes.<sup>12</sup>

20. The Special Rapporteur welcomes the introduction by the Government of minimum housing standards in 2004 and the monitoring of the number of housing units that do not comply with them. These standards require a particular number of rooms and a particular floor size per household member and were updated in 2011. Over the past decade, the share of substandard housing according to the official minimum housing standards has plummeted, from 16.6 per cent in 2006 to 5.9 per cent in 2017. However, in absolute numbers, there are still more than 1 million substandard housing units.

21. Overall, overcrowding in housing has been reduced substantially. Between 1980 and 2016, the average floor size per person tripled to 33 m<sup>2</sup>. Many people, however, still reside in a *jjokbang* or *goshiwon*, which are on average just 3.3 m<sup>2</sup>, as discussed below. There has been a marked increase in the number of households with piped water, from just 56 per cent in 1980 to almost 98 per cent in 2010, and the number of households equipped with a modern toilet increased from just 18.4 to 97 per cent during the same time frame.<sup>13</sup> However, 5.3 per cent of households living below the poverty line still have no access to a private flushing toilet, which is above the OECD average.<sup>14</sup>

## B. Issues in focus

### 1. Housing affordability

22. The lack of affordable housing in the Republic of Korea is a substantial barrier to adequate housing, in particular for those in the lowest income groups, which includes young people, older persons, single parents and persons with disabilities. Low-income households (bottom 20 per cent) tend to spend 26.3 per cent of their income on rent and can at times struggle to cover other necessities. Housing affordability is a particular problem in the Seoul metropolitan area, where 33.6 per cent of all households face an excessive housing cost burden.<sup>15</sup>

23. Buying a home has also become increasingly expensive. During the past 10 years, home prices in all metropolitan areas have increased on average by 3.8 per cent per annum.<sup>16</sup> The burden of buying a home in Seoul rose to a six-year high in the last quarter of 2017.<sup>17</sup> According to KB Kookmin Bank, average apartment prices in Seoul increased by 19.1 per cent between May 2017 and May 2018. While apartment prices soared, the monthly income of an average three-person household increased by only 1.5 per cent.<sup>18</sup> The main drivers of the price increases are real estate speculation and increased demand for housing in metropolitan areas.

24. The Government has tried to ensure affordable housing for low-income households through several public housing schemes and a social and housing benefit for persons living in poverty.

25. The Korea Land and Housing Corporation is one of the largest public housing providers in the world and provides 70 per cent of the public rental housing stock in the Republic of Korea. The Corporation's largest public housing programme is the national rental housing scheme, with about 600,000 units accessible to households earning below 70 per cent of the average median income. It provides rental accommodation at 60–80 per cent

<sup>12</sup> Statistics Korea, "2017 population and housing census".

<sup>13</sup> Kyung-Hwan Kim and Miseon Park, "Housing policy in the Republic of Korea", p. 6.

<sup>14</sup> OECD, Affordable Housing Database, indicator HC2.2. Available at [www.oecd.org/social/affordable-housing-database.htm](http://www.oecd.org/social/affordable-housing-database.htm).

<sup>15</sup> Data provided to the Special Rapporteur by the Ministry of Land, Infrastructure and Transport, May 2018.

<sup>16</sup> Ibid.

<sup>17</sup> Yonhap, "Burden of buying house in Seoul hits 6-year high", *Korea Herald*, 19 March 2018.

<sup>18</sup> Kim Bo-gyung, "Surging apartment prices frustrate Seoul residents", *Korea Herald*, 10 January 2019.

below market rate. The Government has also invested in a public permanent rental housing programme that targets low-income households. The programme is accessible to those in receipt of a basic living benefit. Rents are set at approximately 30 per cent of market price. However, there are only approximately 200,000 permanent rental housing units available.<sup>19</sup>

26. These publicly funded programmes can be commended. The Special Rapporteur was pleased to hear that, after her visit, the Government announced that vulnerable persons can now be exempted from providing a deposit for a public rental unit, which has proved to be a major access barrier for those in the lowest income bracket.

27. In 1999, through the unified National Basic Livelihood Security System, the Government introduced a rental allowance scheme for the lowest-income households. Under the Housing Benefits Act, people living in private rental accommodation can receive a monthly cash subsidy calculated on the basis of household income, rent level, family size and location.<sup>20</sup>

28. While the number of households receiving the housing benefit increased from 686,000 in 2015 to 940,000 in 2018, until very recently many applicants could not receive this benefit as their next of kin held assets or had income that would disqualify the applicant. In addition, only those with an income below 44 per cent of the median income would qualify.<sup>21</sup> The Special Rapporteur also learned that the housing benefit is inadequate to meet housing costs. A number of residents in receipt of livelihood and housing benefits reported that the housing benefit is insufficient to cover actual housing costs and that they must therefore use their livelihood benefit to pay their rent. Some residents pay more than \$250 per month on rent for some of the smallest units with the most squalid conditions, which renders them exceptionally expensive on a per-square-metre basis. In 2016, the average housing benefit covered only 69.8 per cent of the actual average rents paid by the beneficiaries.

29. The Special Rapporteur is concerned by the fact that the eligibility criteria for social security and housing benefits are discriminatory and violate articles 2 (2), 9 and 11 (1) of the International Covenant on Economic, Social and Cultural Rights, as foreign residents and those without a fixed address who cannot provide proof of their previous permanent residence are excluded from receiving the benefits.

30. The Special Rapporteur was very pleased to learn that, after her visit, the Government abolished the regulations limiting access to the housing benefit for those with immediate family members in good economic standing. The Government also announced that the income eligibility criteria for receiving the housing benefit will be relaxed over time. By 2020, income below 45 per cent of the median income will qualify for the benefit scheme. Although this will improve access to housing benefits, a large cohort of those living below the relative poverty rate will still be excluded.

## 2. Security of tenure: *joensei* and monthly rental

31. There are three main forms of tenure in the Republic of Korea: owner-occupied housing, *joensei* and monthly rental.

32. Given that close to 60 per cent of the population is in a homeownership situation, the majority of the population can be said to have security of tenure, a cornerstone of the right to adequate housing. However, this figure drops to 47 per cent for single parents and less than 30 per cent for single persons, making them increasingly dependent on the increasingly expensive and insecure rental housing market.

33. Traditionally, the most common rental regime in the Republic of Korea has been *joensei*. In this regime, a tenant is required to pay a large lump-sum deposit – 50 to 70 per

<sup>19</sup> For a more comprehensive overview, see OECD, *Housing Dynamics in Korea: Building Inclusive and Smart Cities* (Paris, OECD Publishing, 2018), pp. 81–85.

<sup>20</sup> Act No. 12333 of 24 January 2014, as amended by Act No. 13805 of 18 January 2016.

<sup>21</sup> This is below the relative poverty level of 50 per cent below the median income. See also Yonhap, “Govt. softens eligibility rules for welfare subsidies”, *Korea Herald*, 22 June 2018.

cent of the total market price of the unit – for a specified rental contract period (usually two years). The homeowner then invests this money, and the return on the homeowner's investment is in lieu of monthly rental payments. Upon termination of the lease, the tenant receives back their lump-sum deposit.

34. *Joensei* is seen by many tenants as a step towards homeownership through a savings scheme of sorts. It also assisted in the rapid development of the Republic of Korea, as it provided homeowners with liquid capital for construction and development at a time when banking institutions were experiencing great instability. High interest rates in the 1980s and 1990s ensured that property owners received sufficient monthly interest returns and spared them from the collection of monthly rent and the possible risk of tenants defaulting on their monthly rent payments.

35. Over the past decade, the proportion of *joensei* on the rental market has declined. In 2017, 22.5 per cent of all households were in monthly rental contracts, as compared with 15.2 per cent in *joensei* rental arrangements.<sup>22</sup> This is in part because the low interest earned through capital markets makes *joensei* contract arrangements less attractive to owners. To generate more profits, property owners have sharply increased the *joensei* deposits, to such an extent that they are outpacing inflation and household incomes, making this form of rental accommodation less affordable, including for medium-income households.<sup>23</sup>

36. These developments would be less worrying if security of tenure were available for all, irrespective of type of tenancy. In the Republic of Korea, however, security of tenure is truly guaranteed only for the homeowner. The lack of adequate protections for tenants (in both *joensei* and monthly rentals) has been the major cause of housing instability for those who do not own a home. Under article 4 of the Housing Lease Protection Act,<sup>24</sup> lease terms must have a minimum duration of two years. Once the lease expires, however, the tenant does not have the right of renewal and the homeowner can increase upfront deposits at will and without restriction. The tenant is thus left either to accept the increase or to find another home.

37. According to the latest figures published by the Ministry of Land, Infrastructure and Transport, tenants remain in rental units for only 3.4 years on average and the proportion of households that stay in the same home for less than two years is as high as 35.9 per cent.<sup>25</sup>

38. During the visit, a tenant reported to the Special Rapporteur that he and his family had had to move 16 times in the past 20 years, as the cost to renew his existing rental contracts had exceeded his financial means. This causes a great deal of instability, as it is difficult to develop community ties and it disrupts schooling for children. The lack of security of tenure, together with the failure to put more stringent caps on rent increases year upon year, means that residents with *joensei* contracts must often continue to borrow funds every two years. It also contributed to the high average household debt at 163 per cent of net disposable income.

39. The *joensei* system has remained popular because housing costs for apartments rented through this system are on average lower than for similar housing rented on a monthly basis. However, the initial capital needed for the lump-sum deposit creates a barrier, in particular for the young population and other low-income households, such as single-parent households. If a prospective tenant has a low income and inadequate savings or no family members who can provide a loan, only the monthly private rental market is accessible, which is more expensive and provides even less protection for tenants.

40. The Government has attempted to address some of these issues by, for example, developing a public loan scheme. In December 2017, the Government established a plan for the promotion of rental housing registration to encourage, through tax benefits, multi-unit homeowners to voluntarily register their homes as private rentals. Tenants benefit from this

<sup>22</sup> Korean Statistical Information Service, "Korea housing survey 2017: occupation type by administrative district", Statistical Database. Available at: <http://kosis.kr/eng/>.

<sup>23</sup> Kyung-Hwan Kim and Miseon Park, "Housing policy in the Republic of Korea", p. 8.

<sup>24</sup> Act No. 3379 of 5 March 1981, as most recently amended by Act No. 14175 of 29 May 2016.

<sup>25</sup> Lee Joo-hee, "6.8 years needed to own home in Korea", *Korea Herald*, 9 May 2018.



plan, as rent increases are capped and the right of renewal for four or eight years is possible, depending on the registration period chosen by the homeowner. Currently, the registration rate is relatively low at 18 per cent of multi-unit homeowners.

### 3. Informal settlements: *goshiwon*, *jjokbang* and vinyl greenhouses

41. According to household population surveys, the number of households occupying informal settlements or substandard housing not intended for residency, including vinyl greenhouses, *jjokbang*, *goshiwon* and containers, has rapidly increased, from approximately 57,000 in 2005 to close to 394,000 in 2015. Overall, the housing conditions in these informal housing units are grossly inadequate: cramped, overcrowded, prone to flooding and fires and without adequate indoor sanitation facilities, placing women at particular risk.

42. The Special Rapporteur visited residents living in both *goshiwon* and *jjokbang* units. *Goshiwon* were initially constructed as temporary student accommodation. They are, on average, small cubicles of around 3 m<sup>2</sup>, often without windows and with barely enough room for a single bed and a small table. The buildings, usually managed by a live-in caretaker, have a common kitchen and shared sanitation facilities. This substandard housing is no longer reserved exclusively for students. Instead, it is used as accommodation for people with low incomes, most of whom are older persons, either unemployed or retired. Rental costs are surprisingly steep notwithstanding the cramped and substandard conditions, ranging from 220,000 to 450,000 won per month (\$220–\$450).

43. A *jjokbang*, originally built as temporary accommodation for construction workers and day labourers, is a one-room unit of from 2.5 to 5 m<sup>2</sup>, with common kitchen and sanitation facilities. The Special Rapporteur visited some of these residences and noted that some were so small that the tenants had to sleep sitting up or in a bent position. Only short-term leases (monthly, weekly or daily) are available for this type of accommodation. Despite the short-term nature of the rental contracts, 57 per cent of residents live in a *jjokbang* on a long-term basis (more than seven years).<sup>26</sup>

44. For many persons living in poverty, these units are housing of last resort. Costs to reside in a *jjokbang* are from 7,000 to 8000 won (\$6–\$7) per day, or 250,000 won per month (\$220). During her inspection of several *jjokbang* residences in downtown Seoul, the Special Rapporteur noted that many are not only small but also very poorly maintained. Rainwater poured into several rooms, and residents are in a weak position to demand repairs, as they risk losing their room and have no alternative accommodation.

45. Residents living in these sorts of informal accommodation lack security of tenure and are thus at risk of being forcibly evicted, in particular by urban development projects. Residents also face the risk of fire breaking out because many of the units are made of highly flammable materials, such as plastic, scrap wood or cardboard. The largest informal settlement in Seoul is Guryong village, where several fires have occurred since 2010. Vinyl tents are also used to house migrant workers in agricultural areas in deplorable, substandard housing conditions.

46. The Special Rapporteur notes with appreciation that government officials acknowledge that the *goshiwon*, *jjokbang*, vinyl greenhouses and other informal accommodation do not meet adequate housing standards under international human rights law. The urgency to address unsuitable living conditions and insufficient safety arrangements with immediate effect is underlined by a fire that broke out in Seoul on 9 November 2018 in a *goshiwon* that was home to 50 residents, killing 7 people and injuring 12.<sup>27</sup>

47. The Special Rapporteur is concerned by the fact that the Government has yet to develop a plan to upgrade these types of informal accommodation and to ensure access to

<sup>26</sup> Seoul metropolitan government, Mayor of Seoul, Housing Policy Division, *Housing Seoul: Improving the Quality of Life* (2016), p. 148.

<sup>27</sup> Kim Jae-heun, "Fire at housing facility in Seoul kills seven", *Korea Times*, 10 November 2018. Available at [www.koreatimes.co.kr/www/nation/2018/11/281\\_258419.html](http://www.koreatimes.co.kr/www/nation/2018/11/281_258419.html).

adequate housing for residents, in accordance with its commitments under target 11.1 of the Sustainable Development Goals and its human rights obligations.

#### 4. Homelessness

48. According to article 2 of the Act on Support for Welfare and Self-Reliance of the Homeless,<sup>28</sup> persons living in homelessness are defined broadly to include those who have lived without a permanent abode or who have slept in a shelter for a substantial period, as well as persons who live in a dwelling that is considered uninhabitable. Despite this inclusive definition, statistics gathered in 2016 by the Ministry of Health and Welfare counted only those sleeping rough or in homeless shelters, amounting to 11,340 people.<sup>29</sup>

49. According to civil society organizations, this number soars to 262,000 when those living in informal units, such as vinyl homes and huts, and those residing in substandard housing, such as *goshiwon*, *jjokbang* and containers, are included in the count.

50. The factors leading to street homelessness include the Asian financial crisis and the reduction of affordable small units such as *jjokbang* in central locations, as many are being converted into more profitable guest houses for tourists.

51. The Special Rapporteur spoke with a number of homeless persons living in and around Seoul station. Each of them said that they had experienced discrimination, stigmatization and deep shame as a result of their housing status. Government policies to ensure long-term, adequate housing solutions for vulnerable groups living in substandard housing, such as *jjokbang*, *goshiwon*, inns or vinyl houses, in homeless shelters or on the street have been inadequate and inadequately implemented.

52. While homelessness is generally not criminalized in the Republic of Korea, national law prohibits begging in public spaces, and attempts have been made to force homeless people out of parks, citing public safety concerns. The Special Rapporteur witnessed hostile architecture under bridges designed to prevent people from sleeping there.

53. The Special Rapporteur remains concerned about the prohibition of sleeping in railway stations, enforced since 2011, as well as the hiring of security firms to remove persons living in homelessness from train stations. The Special Rapporteur is also concerned by the fact that, without a fixed address, access to the subsistence allowance and housing subsidy is denied. This makes it very difficult for people sleeping rough to improve their living and housing conditions.

54. The Special Rapporteur encourages the national police to adopt a community policing approach towards homeless people. She welcomes the fact that, in 2012, Korail established a programme offering part-time employment to persons living in homelessness to assist their reintegration. She is also pleased that, since her visit, the programme has expanded from Seoul station to Busan, Daejeon and Cheongnyangni stations. Of the initial 240 participants in Seoul station, 20 were later employed by Korail and 65 in other public and private sector jobs. The part-time employment was paid, but monthly payments were below the basic social subsistence allowance rate.

55. Although the Government recognizes that homelessness is a significant issue, it does not appear to have a plan to identify and address the root causes of homelessness with a view to its elimination, in keeping with its international human rights obligations and its commitments under the Sustainable Development Goals and the New Urban Agenda. The Special Rapporteur also did not hear of plans to ensure that long-term adequate housing options are available to those who are homeless.

<sup>28</sup> Act No. 10784 of 7 June 2011, as amended by Act No. 14882 of 19 September 2017.

<sup>29</sup> Lee Tae-Jin and others, 2016 survey on the status of the homeless, Ministry of Health and Welfare. Available at [www.mohw.go.kr/react/al/sal0301vw.jsp?PAR\\_MENU\\_ID=04&MENU\\_ID=0403&CONT\\_SEQ=342148&page=1](http://www.mohw.go.kr/react/al/sal0301vw.jsp?PAR_MENU_ID=04&MENU_ID=0403&CONT_SEQ=342148&page=1).

## 5. Urban redevelopment and reconstruction

56. While large-scale redevelopment and reconstruction projects have been common in the Republic of Korea, the Special Rapporteur welcomes the Government's paradigm shift to move away from mass forced evictions, demolitions and reconstruction towards small-scale urban renewal projects, undertaken in consultation with residents, with minimal involuntary displacement and with the aim of improving living conditions in communities. This is consistent with a human rights-based approach.

57. The previous policy of large-scale demolition and reconstruction has not been entirely phased out, however. The Special Rapporteur was informed that many projects throughout the country that had already been designated for demolition and reconstruction continue to be executed under the previous policy. For example, as at April 2018, the city of Busan was committed to continuing 171 planned large-scale redevelopment and reconstruction projects. The Special Rapporteur hopes that these planned or ongoing large-scale redevelopment projects will be re-evaluated and carried out in a manner that is fully compliant with international human rights standards.

58. For a neighbourhood to be designated as a reconstruction zone, the consent of at least 75 per cent of all homeowners must be secured. These homeowners are guaranteed to receive priority access to housing units after the reconstruction is completed. Tenants, who often make up 70 per cent of the residents in the areas concerned, are not adequately consulted by the Government or by property owners, and some argue that compensation schemes are insufficient to secure a new rental home in a proximate location. The Special Rapporteur also heard disturbing reports of violence and intimidation of residents at the hands of private developers. Some individuals facing imminent forced eviction said that they feel helpless and voiceless, with no choice but to remain in their homes as a form of protest.

59. The Special Rapporteur visited Ahyeon-dong, a neighbourhood in Seoul undergoing reconstruction, where residents have been forcibly evicted without prior consultation, compensation or adequate support for relocation. Local police allegedly failed to protect residents from the squads hired by the developers to demolish their houses.<sup>30</sup> The area was designated for redevelopment in 2003, but the plan stalled for more than 10 years before evictions and home demolitions began in 2018. During her visit, the Special Rapporteur witnessed irregular methods used by private demolition companies to force out residents from their homes, including the destruction of doors and windows of inhabited homes and the spreading of garbage in the streets to make the area uninhabitable.

60. After the Special Rapporteur's visit, she received reports that one resident of Ahyeon-dong, who had experienced repeated evictions together with his mother, committed suicide on 3 December 2018 after he was evicted from his temporary shelter.<sup>31</sup> According to news reports, after the tragic incident, the developer decided to compensate the mother of the deceased and has offered support to her and three other households who have refused to vacate their homes.<sup>32</sup>

61. The Special Rapporteur has been informed that the city of Seoul has launched an investigation to examine the legality of the forced evictions that took place in Ahyeon-dong. Such an investigation must include an analysis of any possible violation of international human rights law.

62. The Special Rapporteur is concerned by the fact that the current legal framework for redevelopment and reconstruction fails to comply fully with the right to adequate housing, general comment No. 7 (1997) on forced evictions of the Committee on Economic, Social and Cultural Rights and the basic principles and guidelines on development-based evictions

<sup>30</sup> See also the submission received on 10 December 2018 from several non-governmental organizations of the Republic of Korea working on the right to housing.

<sup>31</sup> Lee So-jeong, "Death of evictee raises call for action on resettlement", *Korea Herald*, 17 December 2018.

<sup>32</sup> Park Ju-young, "Ahyeon redevelopment union to compensate mother of deceased evictee", *Korea Herald*, 10 January 2019.

and displacement (see A/HRC/4/18, annex I). These human rights standards require that States explore every alternative to displacement; that all residents be consulted about and participate in the planning and implementation of urban renewal plans, regardless of their housing status as homeowners or tenants; that no individual be rendered homeless or vulnerable as a consequence of redevelopment and reconstruction projects; that alternative housing that meets all adequacy standards, including affordability, be provided; and that residents have access to legal recourse to challenge an eviction.

63. The Special Rapporteur welcomes the fact that, in 2016, the Economic Development Cooperation Fund and the Export-Import Bank of the Republic of Korea adopted a safeguards policy that includes improved regulations for involuntary resettlement. It is, however, perplexing that standards to protect affected communities and individuals in development projects abroad appear to be stronger and more in line with international human rights standards than standards to protect those at home. In her view, that which is demanded of projects executed abroad to the benefit of people in foreign countries can and should also be demanded at home.

## 6. Financialization

64. In the early 1990s, housing price stability was a top priority of the Government, which sought to suppress speculation by targeting supply to would-be qualifying owner-occupiers. Speculation was frequently regarded as the key driver of housing price increases, and foreign investment in land was strictly prohibited until 1994, when, owing to lower housing demand, the Government began to allow limited foreign acquisition of commercial real estate.<sup>33</sup> After joining OECD in 1996, the Republic of Korea was compelled to liberalize and do away with regulations that had preserved prices and suppressed speculation in the housing market. Property market liberalization was also a condition of the bailout provided by the International Monetary Fund in 1998.<sup>34</sup> Both these events led to policies that fuelled the financialization of housing, including lifting the ceiling on individual foreign ownership to 55 per cent and allowing foreign financial institutions to purchase equity in domestic banks without restriction.

65. In 1998, the Foreign Investment Promotion Act was passed. This Act further eased the regulations and restrictions on investment by foreigners, while expanding tax incentives for their real estate purchases.<sup>35</sup> The Government also implemented foreigner-friendly policies, such as allowing city mayors to designate areas of the city as “foreign investment zones” to induce foreign investment.<sup>36</sup>

66. The Special Rapporteur was pleased to hear that the current Government has tightened rules on mortgages and the resale of newly built housing units to restrict speculative investment in parts of Seoul and Busan. Rules on mortgages for second homes will also be tightened to prevent excessive borrowing, out of concern for the increase in household debt.<sup>37</sup> In addition, the Government is closely tracking and classifying the most heated markets in country, designating them appropriately and implementing measures to stabilize the housing prices therein.

67. Because of the nature of the *joensei* system, property owners can quickly become multiple homeowners, which also financializes the housing market and drives up prices. The Special Rapporteur was informed that a new law, which came into force in April 2018, would serve to regulate property owners who own multiple homes by encouraging them, through tax benefits, to register their units, with a view to reducing housing speculation.

68. The National Pension Service is the third largest in the world, valued at \$596 billion. In the past 10 years, the Service has been increasing overseas investment, including in real

<sup>33</sup> Kyung-Hwan Kim and Man Cho, “Structural changes, housing price dynamics and housing affordability in Korea”, *Housing Studies*, vol. 25, No. 6 (2010).

<sup>34</sup> Ibid.

<sup>35</sup> Act. No. 5559 of 16 September 1998, as most recently amended by Act No. 14839 of 26 July 2017.

<sup>36</sup> Ibid., art. 18.

<sup>37</sup> “South Korea to tighten mortgage rules for owners of multiple homes”, *Reuters*, 24 October 2017.

estate overseas, to diversify its portfolio, lower its exposure to risk and ensure that it can perform adequately to provide security to its beneficiaries.

69. The rapidly ageing population and the increasing ratio of beneficiaries to contributors has put pressure on the Service to ensure high returns. The Service is therefore under pressure to “diversify its portfolio in terms of geographical exposure” in order to achieve high investment incomes without relying exclusively on volatile stock markets or low interest bonds.<sup>38</sup>

70. Real estate investments make up the largest alternative asset class within the Service, and alternative investments have significantly grown, from 0.5 per cent in 2005 to 11.4 per cent in 2016. Although the Service indicated that only a small portion of its investments has, to its knowledge, gone into residential real estate, the Special Rapporteur is concerned as to whether due consideration is being given to possible adverse effects of investments in real estate on the enjoyment of the right to housing. The push of global investment into residential real estate has contributed significantly to the unaffordability of housing in many countries. Investment in real estate is not negative per se. However, there is a big difference between a public pension fund investing in social or public housing to promote a social goal and a public pension fund investing mainly in residential real estate in prime locations with the intention of maximizing profits, without any consideration for whether such investments may have any adverse effect on the realization of the right to housing.

## IV. Discrimination and social exclusion

### A. Women, young people and older persons

71. As stated above, the Republic of Korea has experienced a rapidly changing demographic, which demands distinct measures to meet the housing needs of women, older persons and young people.

72. Women face significant barriers in access to housing, in particular under the *joensei* rental system. The Republic of Korea has the widest gender pay gap among all OECD countries, at 35.4 per cent as at 2016.<sup>39</sup> Despite the entry into force in 2009 of the Equal Employment Opportunity and Work-Family Balance Assistance Act, the aim of which is to realize gender equality in employment, discriminatory treatment persists with respect to wages and in employment.<sup>40</sup> This makes it increasingly difficult for women to pay a large lump-sum deposit or even a high monthly rent.

73. Women who are divorced, separated or widowed, in particular those with children, face increased discrimination in access to housing. The social stigma faced by single mothers makes them undesirable tenants. The Special Rapporteur welcomes the fact that, in 2019, the Government increased subsidies for children living in single-parent families in order to reduce the percentage of such families living in poverty. Women are considerably disadvantaged after a divorce, as the division of marital property is not equal but rather is based on each spouse’s relative contribution. In the case of the death of a spouse, the property cannot be inherited if it is under the name of the male spouse.<sup>41</sup>

74. Young people face significant barriers in access to affordable and adequate housing. Between 2005 and 2015, single-person households, almost half of which are made up of

<sup>38</sup> PricewaterhouseCoopers, “Beyond their borders: evolution of foreign investment by pension funds”, 2015, p. 36. Available at [www.pwc.lu/en/asset-management/docs/pwc-am-beyond-their-borders.pdf](http://www.pwc.lu/en/asset-management/docs/pwc-am-beyond-their-borders.pdf).

<sup>39</sup> CEDAW/C/KOR/CO/8, para. 38.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid., para. 47; and Korea Women’s Associations United, “Concerns and recommendations on the Republic of Korea”, non-governmental organization submission to the Committee on the Elimination of Discrimination against Women, sixty-ninth session, 19 February–9 March 2018, p. 26, available at [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KOR/INT\\_CEDAW\\_NGO\\_KO\\_R\\_30063\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KOR/INT_CEDAW_NGO_KO_R_30063_E.pdf).

young people, increased fivefold in Seoul.<sup>42</sup> The Government's housing policy, however, has remained focused on couples or family households, and single-person households represent only about 8.8 per cent of all tenants living in public housing supplied by the Korea Land and Housing Corporation. The rent and quality of rented apartments, in which most students and young people live, are not regulated by the Government, forcing young people to spend a large portion of their income on substandard housing.

75. Nearly half of older persons live in relative poverty and in poor living conditions, in particular when they are not homeowners. Owing to the changes in family support structures, older persons can no longer rely on children or relatives for care. As a result, the percentage of single-person households aged 65 years and above is rapidly growing and projected to reach 39.2 per cent by 2035.<sup>43</sup> Social security transfers are not commensurate with average rental prices, in particular for older women, who tend to receive lower pension entitlements.

76. Older persons constitute one of the largest groups living in informal settlements, such as *goshiwon* and *jjokbang*. Their homes tend to be located in popular urban areas vulnerable to the consequences of urban redevelopment projects. In 2010, the Asian Human Rights Commission raised its concern over the forced eviction of hundreds of tenants, mostly older persons, in the Gocheok traditional business market. The Commission stated that the public administration failed to intervene, using the excuse that redevelopment projects are a "private matter", resulting in a lack of protection of the right to housing for vulnerable persons.<sup>44</sup>

77. While more efforts are needed to address the barriers faced by older persons, the Special Rapporteur commends the Government for taking some positive steps in this regard. For example, the Bogeumjari programme aimed to provide 1.5 million public housing units with integrated social services for older persons between 2009 and 2018. In 2017, the Seoul metropolitan government announced that it had provided more than 105,770 public rental housing units over the past five years, including customized rental housing units for seniors living alone.

## B. Migrant workers

78. The foreign population in the Republic of Korea has increased significantly in recent years owing to the demand for migrant workers in mining, manufacturing and agriculture. There were 2.18 million foreigners in the country as at 2017.<sup>45</sup> Migrant workers are largely excluded from the Government's housing policy. Legislation such as the Labour Standards Act and the Act on the Employment, etc., of Foreign Workers has so far inadequately dealt with migrants' access to adequate housing. Migrant workers are also excluded from having access to public rental housing and public housing benefits, constituting a clear violation of articles 2 (2), 9 and 11 (1) of the International Covenant on Economic, Social and Cultural Rights.

79. Research conducted by the National Human Rights Commission revealed the poor living conditions of migrant workers in the agricultural industry. Dormitories provided by their employers are often makeshift buildings or structures such as vinyl greenhouses or containers, made of sheets and panels and lacking bathrooms and showers.<sup>46</sup> The Special Rapporteur visited one such place. The Commission has, in 2013 and 2017, recommended that the Government improve the housing conditions of migrant workers.

<sup>42</sup> Korean Statistical Information Service, "Population and housing census (1990–2015)", Statistical Database. Available at: <http://kosis.kr/eng>.

<sup>43</sup> Miseon Park, *Housing Support for Young Generation in Korea: Responding to Socioeconomic Changes*, Korea Research Institute for Human Settlements special report 2017, vol. 39, p. 12.

<sup>44</sup> Asia Human Rights Commission, urgent appeal case AHRC-UAC-068-2010, 19 May 2010. Available at [www.humanrights.asia/news/urgent-appeals/AHRC-UAC-068-2010/](http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-068-2010/).

<sup>45</sup> Population statistics available at <https://kosis.kr/eng/>.

<sup>46</sup> National Human Rights Commission of the Republic of Korea, *The human rights situation of migrant workers in the agricultural and livestock industry*, 2013.

80. The Ministry of Employment and Labour recently issued a legislative notice allowing migrant workers to request a change of their place of employment if employers fail to provide adequate food or lodging. While it is necessary to abolish all restrictions prohibiting migrant workers from changing their employment (see E/C.12/KOR/CO/4, para. 37), this new regulation is a positive step forward.

### **C. Persons with disabilities**

81. In 2008, the Government of the Republic of Korea ratified the Convention on the Rights of Persons with Disabilities. According to article 19 of the Convention, Governments should take active measures to help persons with disabilities to live independently in the community. Nevertheless, more than 30,000 people with disabilities are institutionalized and 78,000 people with psychosocial disabilities reside in psychiatric hospitals in the Republic of Korea. Because of the lack of strategy to facilitate and support independent living in the community, only those individuals who are fortunate to have personal or family assistance are able to live outside of an institution.

82. While the Government has adopted legislation to protect the rights of persons with disabilities,<sup>47</sup> the Committee on the Rights of Persons with Disabilities has expressed concern about the lack of effective implementation of those acts.<sup>48</sup> The Special Rapporteur was pleased to hear that the Government has abolished its old contested system that determined, through the tallying of points, the level of assistance for persons with disabilities. She was informed that the system will be replaced in July 2019 with a more comprehensive assessment criteria to determine eligibility for living support.<sup>49</sup> The Special Rapporteur urges the Government to review her report on the right to housing and persons with disabilities (A/72/128) and to base eligibility for living support on the personal characteristics, circumstances and needs of persons with disabilities.

### **D. Lesbian, gay, bisexual and transgender persons**

83. The Special Rapporteur heard of various forms of discrimination suffered daily by lesbian, gay, bisexual and transgender persons in the Republic of Korea. These include a series of discriminatory laws and practices that make it difficult for lesbian, gay, bisexual and transgender persons to enjoy their right to housing. The Government has failed to recognize lesbian, gay, bisexual and transgender couples in its rental housing policies, but has taken several measures to prioritize newly-wed heterosexual couples. In addition, neither the law relating to the inheritance of property nor the national tenant law provides security of tenure for partners of lesbian, gay, bisexual and transgender persons who have shared a home in the event of the death of one of the partners.

84. Transgender persons face enormous barriers in access to housing. Owing to the invasive requirements for gender recognition, including sterilization surgery, many transgender persons cannot change their gender marker on their government-issued identification. The Special Rapporteur heard of instances in which individuals whose gender identity did not match that on their identification cards faced significant difficulty in renting a home. Owing to suspicion and stigma, many property owners decline to rent to transgender people. In addition, transgender and gender non-conforming young people face domestic violence from their families and, when they flee their homes, have difficulty in gaining access to shelters, as many shelters are segregated by gender, ultimately leading them into homelessness.

<sup>47</sup> Act on Guarantee of Rights of and Support for Persons with Developmental Disabilities; Act on Welfare Support for Children with Disabilities; and Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, etc.

<sup>48</sup> CRPD/C/KOR/CO/1, para. 11.

<sup>49</sup> Ho Kyeong Jang, "Let everyone shine: South Korea to abolish decades-long disability rating system", *Korea Exposé*, 16 March 2018.

85. In her meeting with the Ministry of Gender Equality and Family, the Special Rapporteur was dismayed to hear that the barriers facing lesbian, gay, bisexual and transgender persons were “outside the policy focus” of the Ministry. The Committee on Economic, Social and Cultural Rights recommended, in its concluding observations, that the Republic of Korea take effective measures to eliminate de jure and de facto discrimination against lesbian, gay, bisexual and transgender persons and “revise legal and regulatory provisions that are discriminatory or have a discriminatory effect, such as those relating to social security, reproductive health and housing” (E/C.12/KOR/CO/4, para. 25 (b)). The Special Rapporteur was encouraged to hear that, in August 2017, the Supreme Court ordered the Government to allow lesbian, gay, bisexual and transgender foundations to legally register as charities.<sup>50</sup> This is an important step towards recognizing lesbian, gay, bisexual and transgender persons as a vulnerable group in Korean society and empowering their representatives to advocate lesbian, gay, bisexual and transgender housing rights.

## V. Access to justice

86. Central to the realization of the right to housing is the ability of rights holders to claim the right to housing, as the Special Rapporteur argued in her most recent thematic report (A/HRC/40/61).

87. The Constitution of the Republic of Korea includes a broad right to a life worthy of a human being. In the light of the relationship between housing, dignity and life itself (see A/71/310), the right to adequate housing could be read into this provision. To date, this provision has not been used for such claims. Furthermore, the Special Rapporteur was told that, because the Constitution gives only limited scope to the right to housing, there may be a reluctance by the judiciary more generally to review the conformity of domestic legislation with the right to housing. The Special Rapporteur learned that the judiciary was likely to accord deference to the Government if housing rights claims of a systematic nature challenging government policies were made. The Special Rapporteur learned of a case in which a utility company challenged its obligation to provide utility services to individuals. The court imposed on the company positive obligations, suggesting that the court might be open to other rights claims requiring the Government to provide particular services or goods and not only protect residents against violations related to national housing legislation, including in the field of the right to housing.

88. The Korea Legal Aid Corporation provides free legal advice in its 113 offices, and around 5 per cent of all cases for which it provided support in 2018 relate to the Housing Lease Protection Act. Barriers to access to justice for the right to housing include the high costs associated with legal procedures, such as court stamp fees (see E/C.12/KOR/CO/4, paras. 7–10). In addition, there appears not to be a strong culture of claiming economic, social and cultural rights through strategic litigation by civil society organizations. While the Framework Act on Residence provides for the right to live a decent residential life, avenues and mechanisms for residents to claim the right to housing in the Republic of Korea could be further strengthened.

89. The National Human Rights Commission can receive complaints by rights holders and undertake investigations. Its investigative mandate is, however, limited to articles 10 to 22 of the Constitution, thus largely excluding economic, social and cultural rights, although the Commission can investigate and receive complaints relating to discrimination and has used this mandate to undertake studies covering the right to housing. As at May 2017, complaints received by the Commission have related mainly to civil and political rights rather than discrimination.<sup>51</sup> Of the approximately 20,000 discrimination cases heard, 269 concerned discrimination in relation to residential facilities.<sup>52</sup>

<sup>50</sup> Human Rights Watch, “South Korea: Supreme Court affirms LGBT rights”, 4 August 2017.

<sup>51</sup> See [www.humanrights.go.kr/site/program/link/statisticsEng?menuid=002003005](http://www.humanrights.go.kr/site/program/link/statisticsEng?menuid=002003005).

<sup>52</sup> National Human Rights Commission of the Republic of Korea, *Annual Report 2017* (Seoul, 2018), p. 88.



90. The Special Rapporteur notes that the Housing Lease Protection Act includes provisions establishing dispute conciliation committees in each branch of the Korean Legal Aid Corporation. These committees can deliberate on and mediate disputes over increases in or the reduction of rents and deposits, lease periods and maintenance issues.<sup>53</sup> As the dispute conciliation committees were established in 2017, it is too early to assess whether they provide an effective mechanism for tenant protection in housing disputes.

91. The Special Rapporteur welcomes the fact that the Seoul metropolitan government has taken a leading role in implementing human rights policies at the city level. For example, it established the Committee against Human Rights Violations, a mechanism that receives and can investigate human rights complaints related to the city's administration and its public institutions and enterprises, including welfare institutions that receive financial support from the city. Institutions and bodies that have received a recommendation from the Committee have two months to notify the Human Rights Division regarding follow-up measures taken to implement the recommendation. The Committee can also give advice on municipal regulations and policies that influence human rights. As many housing issues fall under the scope of municipalities, this type of mechanism is an important step towards providing full access to justice at the local level.<sup>54</sup>

92. The Seoul metropolitan government has furthermore established a human rights protection group for demolition sites, which includes a member of the Seoul Bar Association. Its aim is to protect residents at demolition sites through human rights monitoring. The group currently focuses on persuading "residents to voluntarily and peacefully leave the property" and on overseeing "the process at the eviction site to prevent violence against residents".<sup>55</sup> The group has conducted monitoring at more than 30 demolition sites, but it is not clear whether the group also assists in protecting the right to adequate housing for homeowners and tenants facing eviction and relocation, for example in legal disputes relating to eviction or demolition orders.

## VI. Conclusions and recommendations

93. **The Republic of Korea has made significant efforts to progressively realize the right to housing. The Government has taken steps, including in the period since the visit of the Special Rapporteur, to provide a legislative and policy framework that both recognizes the right to housing and allows for its implementation. In the past 50 years, significant progress has been made with respect to the quality and supply of housing in the country. Access to water and sanitation and overcrowding have been addressed for many people. Perhaps most notably, the Government has implemented the largest publicly funded housing programme in the world.**

94. **The Special Rapporteur is concerned that, despite this progress, some aspects of housing quality, security and affordability, in particular for low-income households and disadvantaged groups, remain pressing issues.**

95. **More than 300,000 people continue to live in substandard accommodation or in informal settlements. Reconstruction and development projects affecting housing in metropolitan areas are being implemented without consulting affected populations and are causing forced evictions and displacement. Homelessness, when broadly defined, is a significant problem affecting more than 260,000 people. Social security measures are denied to some vulnerable populations and are insufficient for those who are eligible. The *joensei* system must be further regulated to properly respond to the socioeconomic realities of the Republic of Korea.**

96. **The Special Rapporteur regards the housing concerns outlined in the present report to be manageable and is confident that they can be addressed, especially in the light of the Government's strong commitment to human rights and the right to**

<sup>53</sup> Act No. 3379 from 5 March 1981 as amended by Act No. 14175 from 29 May 2016, arts. 14–31.

<sup>54</sup> Seoul metropolitan government, "Introduction to Seoul human rights governance".

<sup>55</sup> *Ibid.*, p. 6.

housing. The Government also has the capacity, financial resources and planning skills to make further significant improvements to the realization of the right to adequate housing for all people living in the country.

97. In addition to the recommendations contained in earlier parts of the report, the Special Rapporteur makes the following recommendations to the Government of the Republic of Korea:

(a) The Framework Act on Residence (2015) should be amended to refer to international human rights laws and standards and to ensure that it is consistent with the report of the Special Rapporteur on rights-based housing strategies (A/HRC/37/53). In the implementation of the Act, the Government must employ the standard of maximum available resources for the progressive realization of the right to housing. It should also ensure that the implementation of the Act is reviewed and updated as necessary, in consultation with relevant stakeholders and civil society organizations;

(b) The Government should ensure that its various housing programmes and policies form a coherent national plan of action or strategy in keeping with the human rights principles laid out in the report of the Special Rapporteur on rights-based housing strategies;

(c) The Government should develop a plan on an urgent basis to prevent, reduce and eliminate homelessness, as defined by the Act on Support for Welfare and Self-Reliance of the Homeless, by 2030, in keeping with its commitments under the Sustainable Development Goals, in particular target 11.1. The Government must also ensure that persons living in homelessness have access to long-term housing options and are treated with dignity and respect and without violence by all government officials, their agents and third parties, including private security personnel;

(d) To address the growing unaffordability of housing, the Government should take the following measures:

(i) Raise the housing benefits to a level that is commensurate with average rents and indexed to inflation;

(ii) In compliance with the rights to non-discrimination and equality, ensure that social security and housing benefits are available to all who qualify in terms of level of income, including lesbian, gay, bisexual and transgender persons, foreign residents and those who have no fixed address;

(iii) Consider taking steps to encourage residential property owners to phase out the *joensei* system. As a first incremental step to this end, the Government should make registration in accordance with the Special Act on Private Rental Housing – which places caps on rent increases and allows for longer tenancies – mandatory for multi-unit homeowners. This will also enhance the security of tenure of residents in rental accommodation;

(iv) Ensure the adequate supply of public rental housing with long-term leases and maintain the deposit waiver to enhance access for those in the lowest income brackets;

(v) Continue to promote the existing reverse mortgage scheme for older homeowners who face difficulties in meeting daily living expenses, so as to avoid their being forced out of their homes because of financial difficulties;

(e) To ensure the adequate supply of housing for vulnerable groups, including young people, lesbian, gay, bisexual and transgender persons, migrants, older persons and persons with disabilities, the Government should adjust the Act on the Support for Housing Disadvantaged Persons including Persons with Disabilities and the Aged to ensure that the percentage of housing units reserved for these groups is commensurate with need;

(f) Publicly funded rental housing and social security programmes must be non-discriminatory and accessible to those in need, including those without a fixed

address, foreign residents, migrants and lesbian, gay, bisexual and transgender persons;

(g) The Government should consider enacting regulations to ensure that a certain percentage of housing units newly built by private construction companies and developers is reserved for low-income residents through a rental or homeownership scheme;

(h) The Government must develop a national strategy for improving the quality and safety of all homes that currently do not meet minimum housing adequacy standards under international human rights law, including *goshiwon*, *jjokbang* and vinyl homes, in consultation with residents, in keeping with commitments made under target 11.1 of the Sustainable Development Goals. The Government should ensure that the upgrading of substandard housing does not result in housing that is unaffordable, or an increase in rough sleeping or the institutionalization of persons living in poverty;

(i) Forced evictions are a gross violation of the right to housing and should never occur. The Government should bring its legal framework, policies and practices with respect to the reconstruction and redevelopment of urban areas into full compliance with international human rights law, including general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights and the basic principles and guidelines on development-based evictions and displacement;

(j) The Government should continue to regulate financial investment in housing in order to curb speculation domestically and abroad, including by pension funds, and consider the reintroduction of regulations for foreign investment in real estate;

(k) The National Pension Service and institutional and private investors in the Republic of Korea should exercise human rights due diligence as recommended by the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31). Such due diligence should include an assessment of whether investments at home or abroad may directly or indirectly contribute to human rights violations, including forced evictions, and whether investments in real estate may cause adverse effects on the right to adequate housing, such as contributing to the reduction of social housing stock by private acquisitions or to gentrification resulting in a significant reduction of the affordable housing stock;

(l) The Government must ensure protection against discrimination in housing in accordance with international human rights law, including by taking the following steps:

(i) Enacting non-discrimination legislation applicable to all aspects of accommodation, including access to benefits, shelters and private rental accommodation. Such legislation must include equal protection of inheritance and property rights for women and partners of lesbian, gay, bisexual and transgender persons. It should be overseen and implemented by the National Human Rights Commission and include a claiming mechanism;

(ii) Developing education campaigns that serve to combat the social stigma and discrimination faced by women, in particular single mothers, and by lesbian, gay, bisexual and transgender persons, so as to ensure that these vulnerable groups do not face discrimination by property owners. Such campaigns could be executed by the Ministry of Gender Equality and Family and serve to reorient the Ministry’s policy focus to include lesbian, gay, bisexual and transgender persons;

(iii) Adopting a national strategy for persons with disabilities to facilitate and support independent living in the community rather than in institutions, as provided for in article 19 of the Convention on the Rights of Persons with Disabilities (see CRPD/C/PRT/CO/1, paras. 38–39; and A/72/128). In this regard, the Government should provide adequate housing and social support to

persons with disabilities to ensure that they can reside with their families or enjoy independent living in their communities;

(iv) **Ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;**

(m) **To enhance access to justice for the right to housing, the following steps must be taken:**

(i) **The Constitutional Court must be open to hearing social and economic human rights claims and interpreting the Constitution in a manner that is consistent with international human rights law;**

(ii) **Non-governmental organizations and private bar lawyers should bring before the courts appropriate right to housing claims;**

(iii) **The Government should ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**

(iv) **The Government should enhance institutional arrangements for providing legal advice and legal assistance to tenants;**

(v) **The Government should encourage the establishment of human rights complaint mechanisms at the local government level, following the model of the Seoul metropolitan government, and enhance existing monitoring mechanisms to effectively protect tenants from forced evictions.**

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