

**Human Rights Council****Forty-third session**

24 February–20 March 2020

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Guidelines for the Implementation of the Right to Adequate
Housing****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***Summary*

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, submits the present report pursuant to Human Rights Council resolutions 15/8 and 34/9. The report contains Guidelines for the Implementation of the Right to Adequate Housing, focusing on the key requirements of effective rights-based responses to emerging challenges.

The current global crisis in housing is unlike any previous crisis. It is linked to growing socioeconomic inequality, large-scale financialization of housing and land and unsustainable housing systems that treat housing as a commodity. In the Special Rapporteur's experience, States are not always aware of how human rights obligations apply in the context of housing and, more importantly, of how those obligations can be translated into concrete actions to address the crisis.

The Guidelines provide States with a set of implementation measures in key areas of concern, including homelessness and the unaffordability of housing, migration, evictions, climate change, the upgrading of informal settlements, inequality and the regulation of businesses. All of the implementation measures are informed by the urgent need to reclaim housing as a fundamental human right. Implementation of the Guidelines will substantially alter how States treat housing, creating a new landscape where housing can be secured as a human right for all.



Contents

	<i>Page</i>
I. Introduction	3
II. Guidelines for the Implementation of the Right to Adequate Housing	4
Guideline No. 1. Guarantee the right to housing as a fundamental human right linked to dignity and the right to life	4
Guideline No. 2. Take immediate steps to ensure the progressive realization of the right to adequate housing in compliance with the standard of reasonableness.	5
Guideline No. 3. Ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions	6
Guideline No. 4. Implement comprehensive strategies for the realization of the right to housing	7
Guideline No. 5. Eliminate homelessness in the shortest possible time and stop the criminalization of persons living in homelessness	7
Guideline No. 6. Prohibit forced evictions and prevent evictions whenever possible	8
Guideline No. 7. Upgrade informal settlements incorporating a human rights-based approach	9
Guideline No. 8. Address discrimination and ensure equality	10
Guideline No. 9. Ensure gender equality in housing and land	12
Guideline No. 10. Ensure the right to adequate housing for migrants and internally displaced persons	13
Guideline No. 11. Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing	15
Guideline No. 12. Ensure the regulation of businesses in a manner consistent with State obligations and address the financialization of housing	16
Guideline No. 13. Ensure that the right to housing informs and is responsive to climate change and address the effects of the climate crisis on the right to housing	18
Guideline No. 14. Engage in international cooperation to ensure the realization of the right to adequate housing	19
Guideline No. 15. Ensure effective monitoring and accountability mechanisms	20
Guideline No. 16. Ensure access to justice for all aspects of the right to housing	21

I. Introduction

1. This is the final 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. Based on her experiences during her mandate and responding to global housing conditions, the Special Rapporteur is presenting the Guidelines for the Implementation of the Right to Adequate Housing.¹
2. More than 1.8 billion people worldwide lack adequate housing, and the number of people living in informal settlements has now surpassed 1 billion.² It is estimated that 15 million people are forcibly evicted every year and that approximately 150 million people are homeless.³
3. Private developers and investors are dominating housing systems in an unprecedented fashion, often divorcing housing from its social function by treating it as a commodity for speculation. The land on which informal settlements are located and affordable housing have become prime targets for private equity firms and pension funds looking for undervalued assets in which to park, grow and leverage capital, making housing and land increasingly unaffordable.
4. The present global housing crisis is not like any previous crisis of its kind. It is not caused by a decline in resources or an economic downturn but rather by economic growth, expansion and growing inequality. Housing has become a key driver of growing socioeconomic inequality, increasing wealth for those who own housing and driving those who do not into greater debt and poverty.
5. This situation raises unique challenges for the implementation of the right to housing. Tinkering around the edges of an unsustainable model of economic development will not work. The right to housing must be implemented in a manner that changes the way housing is currently conceived, valued, produced and regulated.
6. There is reason to believe change is possible. Both civil society and governments are increasingly recognizing the housing crisis as a human rights crisis requiring a human rights response. Neighbourhoods and communities around the world are organizing against detrimental development, “touristification” and speculation and are gaining the support of a growing number of local governments in affirming their right to adequate housing.
7. There remains, however, a lack of clarity among many in government and in civil society about what it actually means to implement the right to housing in a comprehensive and effective manner so as to meet these unprecedented challenges.
8. Fortunately, there is a well-established framework in international human rights law from which States and rights holders can draw. The content of the right to adequate housing has been the subject of extensive commentary and jurisprudence within the international human rights system and has been a central focus of human rights advocacy globally.⁴
9. The Guidelines set out below build on the normative standards that have emerged from this jurisprudence, as well as from the recommendations and experiences of the

¹ The Special Rapporteur thanks all the researchers and students who assisted in this and other reports, including Stefania Errico, Sam Freeman and Julieta Perucca. A special thanks is extended to Bruce Porter for his extensive work on the present report and throughout the duration of the mandate. Sincere thanks also go to the staff of the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), in particular Juana Sotomayor, Gunnar Theissen, Madoka Saji, Jon Izagirre and Natacha Foucard, for their support for the mandate.

² See <https://unstats.un.org/sdgs/report/2019/goal-11>.

³ See <https://fe.witness.org> and <https://yaleglobal.yale.edu/content/cities-grow-so-do-numbers-homeless>.

⁴ See, e.g., the Committee on Economic, Social and Cultural Rights’ general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions. See also the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I), the guiding principles on security of tenure for the urban poor (A/HRC/25/54) and the Views of the Committee in *Ben Djazia and Bellili v. Spain* (E/C.12/61/D/5/2015) and *I.D.G. v. Spain* (E/C.12/55/D/2/2014).

Special Rapporteur. They have been developed in consultation with States and other stakeholders throughout the length of the mandate.⁵ They do not attempt to cover all State obligations related to the right to housing. Rather, they describe the key elements needed for the effective implementation of the right to housing as it has been elaborated under international human rights law.

II. Guidelines for the Implementation of the Right to Adequate Housing

Preamble

10. The present Guidelines focus on the obligations of States as the primary duty bearers under international human rights law. The term “State” refers to all public authorities and all levels and branches of government, from the local to the national, including legislative, judicial and quasi-judicial bodies. “States’ obligations” are understood to include all aspects of the relationship of States with businesses, financial institutions, investors and other private actors that play important roles in the realization of the right to housing. In the present Guidelines, the “right to housing” refers to “the right to adequate housing” as guaranteed under international human rights law.

11. The present Guidelines shall not be interpreted as limiting, altering or otherwise prejudicing any rights recognized under international human rights or humanitarian law and should, where applicable, be read together with other human rights standards and guidelines related to displacement, evictions, security of tenure, public participation, business and human rights and with the jurisprudence and comments of United Nations human rights treaty-monitoring bodies and special procedures. The Guidelines themselves should be read as interrelated and interdependent.

Guideline No. 1. Guarantee the right to housing as a fundamental human right linked to dignity and the right to life

12. The right to adequate housing has been recognized as a fundamental human right because it is integral to core human rights values such as dignity, equality, inclusion, well-being, security of the person and public participation.

13. Every year, millions of lives are lost and many more damaged by homelessness and inadequate housing. Yet these massive violations of human rights, in particular of the rights to housing and the right to life, as well as other rights, such as the rights to health, physical integrity, privacy and water and sanitation, are rarely addressed as such by Governments, human rights institutions or justice systems.⁶

14. States often misunderstand the right to housing as merely a commitment to housing programmes, a matter of socioeconomic policy insulated from human rights values and imperatives and without meaningful accountability or access to justice.⁷

15. As clarified by the Committee on Economic, Social and Cultural Rights, the right to adequate housing should not be interpreted narrowly, as a right to mere physical shelter or to housing conceived as a commodity. Rather, the right to housing must be understood in relation to the inherent dignity of the human person.

⁵ In addition, consultations on an earlier draft of the guidelines were held in Geneva, Kampala and Durban with representatives of States, civil society and local governments. Written comments received are available from www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx.

⁶ A/71/310, para. 31.

⁷ A/69/274, para.18, and A/71/310, para. 5.

16. Implementation measures:

(a) States, including their judiciaries, must ensure that the right to adequate housing is recognized and enforceable as a fundamental human right through applicable constitutional and legislative provisions or through interpretations of interdependent rights such as the right to life. It should be integrated into policy and programme design and included in the training of lawyers and judges;⁸

(b) The right to housing should be defined as the right to live in a home in peace, security and dignity, and include security of tenure, availability of services, affordability, habitability, accessibility, appropriate location and cultural adequacy;⁹

(c) Courts should adopt interpretations of domestic law that are consistent with the right to housing when exercising judicial review and Governments should promote such interpretations, including in pleadings in court cases;¹⁰

(d) The right to housing must be recognized and affirmed as indivisible and interdependent with other rights, including the rights to life, security of the person and equality, and these rights should be interpreted to the greatest extent possible in such a way as to facilitate the full protection of the right to housing.¹¹

Guideline No. 2. Take immediate steps to ensure the progressive realization of the right to adequate housing in compliance with the standard of reasonableness

17. Although violations of the right to housing, such as forced evictions, are often caused by State action, many of the most egregious violations derive from failures of States to take positive measures to address the unacceptable housing conditions in which so many people are compelled to live.

18. States have an obligation to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the right to adequate housing, by all appropriate means, including particularly the adoption of legislative measures.¹² The Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights clarifies that compliance with that obligation should be assessed based on the reasonableness of the steps taken.¹³

19. Implementation measures:

(a) States must recognize the progressive realization of the right to housing as a legal obligation under domestic law, employing the reasonableness standard developed by the Committee on Economic, Social and Cultural Rights, which means that States have an obligation to fulfil the right to housing for all as swiftly and efficiently as possible;¹⁴

(b) Measures taken must be deliberate, concrete and targeted towards the fulfilment of the right to housing within a reasonable time frame. States must allocate sufficient resources and prioritize the needs of disadvantaged and marginalized individuals or groups living in precarious housing conditions and ensure transparent and participatory decision-making;¹⁵

⁸ A/71/310, para. 73.

⁹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 8.

¹⁰ Ibid., general comment No. 9 (1998) on the domestic application of the Covenant, paras. 14–15; E/C.12/1993/5, paras. 21–24.

¹¹ Committee on Economic, Social and Cultural Rights, general comment No. 9, para. 15.

¹² International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

¹³ Optional Protocol to the Covenant, art. 8.4. See also *Ben Djazia and Bellili v. Spain*, para. 15.1.

¹⁴ *Ben Djazia and Bellili v. Spain*, para. 15.3.

¹⁵ Committee on Economic, Social and Cultural Rights, general comments No. 3 (1990) on the nature of States parties' obligations and No. 4. See also the Committee's statement on an evaluation of the obligation to take steps to the "maximum of available resources" under an optional protocol to the Covenant (E/C.12/2007/1, para. 3) and *Ben Djazia and Bellili v. Spain*, paras. 15.3 and 21 (c).

(c) Measures taken must be reasonable and proportionate in relation to the interests at stake and the circumstances of rights holders;¹⁶

(d) States must be able to demonstrate that they have utilized the maximum of available resources and all appropriate means to uphold the rights of the person or group concerned;

(e) States must ensure that all relevant authorities and decision makers, including the courts, are familiar with the reasonableness standard and are able to apply it to hold public institutions accountable to the right to housing.

Guideline No. 3. Ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions

20. The right to meaningful and effective participation is a core element of the right to housing and critical to dignity, the exercise of agency, autonomy and self-determination.

21. Those in need of housing or related social benefits should be treated as rights holders and as experts in what is required for a dignified life, not recipients of charity. They are entitled to participate actively, freely and meaningfully in the design and implementation of programmes and policies affecting them.¹⁷

22. Housing programmes, however, tend to be developed and implemented through inefficient top-down decision-making that reinforces patterns of social exclusion and creates housing that is ill-suited to peoples' needs, commonly in remote locations and often left abandoned.

23. Rights-based participation supported by all levels of government transforms residents into active citizens and engaged community members, making housing programmes more affordable and effective and creating vibrant, more sustainable communities.

24. Implementation measures:

(a) The right to free and meaningful participation in housing policies must be guaranteed in law and include the provision of necessary institutional and other supports;

(b) Affected individuals must be able to influence the outcome of decision-making processes based on knowledge of their rights and have access to relevant information and sufficient time to consult; socioeconomic, linguistic, literacy and other barriers to participation must be addressed;¹⁸

(c) Participation in the design, construction and administration of housing should reflect the diversity of communities and ensure that the needs of all residents are represented. Equal participation must be ensured for women, informal and homeless residents, persons with disabilities and other groups experiencing discrimination or marginalization;¹⁹

(d) Indigenous peoples have the right to be actively involved in developing and determining housing programmes that affect them. States must consult with indigenous peoples to obtain their free, prior and informed consent before adopting or implementing administrative and legislative measures that may affect them.²⁰

¹⁶ See *Ben Djazia and Bellili v. Spain*, paras. 15.3 and 15.5.

¹⁷ *Ibid.* See also the Committee on the Rights of the Child's general comment No. 21 (2017) on children in street situations.

¹⁸ Committee on Economic, Social and Cultural Rights' general comment No. 4, para. 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 39).

¹⁹ Committee on Economic, Social and Cultural Rights, general comment No. 21 (2009) on the right of everyone to take part in cultural life, in particular paras. 16 ff.

²⁰ Declaration on the Rights of Indigenous Peoples, in particular arts. 10, 19 and 23.

Guideline No. 4. Implement comprehensive strategies for the realization of the right to housing

25. The major structural issues giving rise to homelessness, informality and other systemic violations of the right to housing are multidimensional, involving many different areas of policy and programmes and requiring comprehensive plans to effect meaningful change over time.

26. The Committee on Economic, Social and Cultural Rights has emphasized that the obligation to progressively realize the right to housing will almost invariably require the adoption of a national housing strategy.²¹ Strategies should be developed in consultation with affected groups, include clearly defined goals, identify the resources to be allocated and clarify responsibilities and a time frame for implementation.²²

27. Most States have not implemented effective strategies to realize the right to housing. Where timelines and goals for outcomes have been identified, often there has been insufficient commitment to meeting them and no meaningful accountability.

28. Implementation measures:

(a) Housing strategies must identify the State's obligations to be realized progressively, based on clear goals and timelines for achieving specific outcomes and the right to adequate housing for all in the shortest possible time;

(b) Strategies should provide coherence and coordination in all relevant policy areas, particularly urban planning, land regulation, taxation and finance, social benefits and services;

(c) States should establish specific strategies to address obstacles to the right to housing such as discrimination, financialization, speculation, predatory lending, land-grabbing, conflict, forced evictions, environmental degradation and vulnerability to disasters. Strategies adopted should be responsive to persistent and emerging challenges in urban and rural areas, such as spatial injustice and climate change;

(d) States should provide for independent monitoring of progress in meeting goals and timelines, establish procedures through which affected communities can identify systemic issues affecting the realization of the right to housing and ensure effective responses.²³

Guideline No. 5. Eliminate homelessness in the shortest possible time and stop the criminalization of persons living in homelessness

29. Homelessness is experienced in a number of ways: living on streets or sidewalks, or in makeshift encampments in rural or urban areas, doubling or tripling up with others, or living in overcrowded improvised shelter, unprotected from the elements or without access to water, sanitation or electricity.

30. Homelessness is a profound assault on dignity, social inclusion and the right to life. It is a *prima facie* violation of the right to housing and violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.²⁴

31. Homeless persons and persons living in informal housing are frequently subject to criminalization, harassment and discriminatory treatment because of their housing status. They are denied access to sanitation facilities, rounded up and driven from communities and subjected to extreme forms of violence.

²¹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 12.

²² *Ibid.*

²³ See also A/HRC/37/53.

²⁴ A/HRC/31/54, para. 4.

32. The Committee on Economic, Social and Cultural Rights and the Human Rights Committee have recognized distinctions based on socioeconomic status, including homelessness, as a form of discrimination that must be prohibited in domestic law.²⁵ States have an immediate obligation to respond urgently to the needs of persons who are currently homeless as well as to implement plans to prevent and eliminate systemic homelessness as swiftly as possible.

33. Implementation measures:

(a) States should provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health.²⁶ States should take special measures to protect the rights of children in street situations;²⁷

(b) Individuals and families should be provided access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. “Housing first” approaches that centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community;

(c) States should prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living;

(d) States should provide, within their justice system, alternative procedures for dealing with minor offences of homeless people to help them break the cycle of criminalization, incarceration and homelessness and secure the right to housing. Police should be trained to interact with homeless persons in a manner that respects and promotes their dignity and rights.

Guideline No. 6. Prohibit forced evictions and prevent evictions whenever possible

34. Forced evictions are defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection that are compliant with international human rights law.²⁸ Forced evictions have long been recognized as a gross violation of human rights.

35. In order for any eviction to comply with international human rights law, a number of criteria must be met, including meaningful engagement with those affected, exploration of all viable alternatives, relocation to adequate housing agreed upon by the affected households so that no one is rendered homeless, access to justice to ensure procedural fairness, and compliance with all human rights. Where these criteria are not met, evictions are deemed to have been forced and to constitute a violation of the right to housing.

36. Forced evictions are widespread and devastating in their consequences. They are frequently carried out to make way for large-scale development projects, natural resource extraction and agribusiness projects, to clear informal settlements or homeless

²⁵ Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 35, and Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 61.

²⁶ A/HRC/31/54. For indigenous peoples’ experience of homelessness, see A/74/183.

²⁷ See in particular the Committee on the Rights of the Child’s general comment No. 21.

²⁸ Committee on Economic, Social and Cultural Rights, general comment No. 7, para. 3.

encampments, to replace existing lower-cost housing with luxury housing or commercial developments or ostensibly for public order, safety and city beautification. In some contexts, they involve brutal violence, including gender-based violence and deaths. Evictions have also become a more frequent response to rent or mortgage arrears in the context of rising housing costs, and in many cases national law governing such evictions is not compliant with international human rights.

37. States must prohibit forced evictions and ensure that any evictions under domestic law are fully compliant with international law. Meaningful engagement with communities should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without the need for eviction procedures or police enforcement.²⁹

38. Implementation measures:

(a) Forced evictions as defined under international human rights law must be prohibited in all circumstances, regardless of ownership or tenure status of those affected. Victims of forced evictions must receive adequate compensation, reparation and access to housing or productive land as appropriate;³⁰

(b) National laws governing evictions must be compliant with human rights norms, including the principle of respect for human dignity and the general principles of reasonableness, proportionality and due process, and should equally apply to those living in homeless encampments. Access to justice must be ensured throughout the process and not just when eviction is imminent. All feasible alternatives to eviction must be explored, in consultation with affected persons. If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by the community, adequate alternative housing of similar size, quality and cost must be provided in close proximity to the original place of residence and source of livelihood.³¹ Evictions must not render people homeless.³² Access to justice must be ensured throughout the process and not just when eviction is imminent;

(c) In instances of mortgage foreclosure or rent arrears, evictions should only occur as a last resort and after a full exploration of alternative means to resolve outstanding debt, such as through emergency housing benefits, debt rescheduling or, if required, relocation to more affordable housing units meeting adequacy standards;

(d) States should implement programmes to prevent evictions through measures such as rent stabilization and controls, rental assistance, land reform and other initiatives to promote land and tenure security in urban and rural settings. Preventive measures should also be adopted to eliminate the underlying causes of eviction and displacement, such as speculation in land, real estate and housing. No relocation of indigenous peoples is permitted without their free, prior and informed consent.³³

Guideline No. 7. Upgrade informal settlements incorporating a human rights-based approach

39. Nearly one quarter of the world's urban population live in informal settlements, which means they are often denied basic services and compelled to live in disaster-prone areas and on the worst lands, often subject to forced eviction.³⁴ Grossly inadequate housing in informal settlements is one of the most pervasive violations of the human right to

²⁹ A/HRC/40/61, para. 38.

³⁰ See the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, paras. 23–27) and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, arts. 17 and 24.

³¹ Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 60).

³² Committee on Economic, Social and Cultural Rights, general comment No. 7, paras. 10 and 13.

³³ United Nations Declaration on the Rights of Indigenous Peoples, art. 10.

³⁴ See also A/73/310/Rev.1.

housing worldwide.³⁵ At the same time, informal settlements are significant accomplishments by residents who have created vibrant, self-sufficient communities in the most adverse circumstances.

40. Residents of informal settlements often face discrimination and stigmatization, and are frequently treated as violators of laws and “encroachers” rather than being recognized as rights holders who require support to improve their housing status.³⁶ Upgrading schemes too often result in the relocation of residents to alternative housing that is inadequate, distant from their original homes, isolated from employment opportunities or community life and without access to adequate transportation.

41. Under the 2030 Agenda for Sustainable Development, States have committed themselves to ensuring access for all to adequate, safe and affordable housing and to upgrading informal settlements (target 11.1 of the Sustainable Development Goals).³⁷ To meet this goal, States should engage with residents of informal settlements to build on their capacities, improve conditions and keep communities intact.

42. Implementation measures:

(a) Efforts to upgrade housing should be community-led, inclusive, enabling and provide for rights-based participation and accountability in terms of design and implementation. Upgrading efforts should ensure that residents have continued access to their livelihoods and support the economic development of the community, integrating residents’ skills and labour whenever possible.³⁸ Measures must be in place to ensure that upgraded housing remains affordable;

(b) States should uphold the right to remain in situ whenever possible and desired by residents. Relocation should only occur if agreed to by residents and after all other options have been explored through meaningful consultation with and the participation of residents;³⁹

(c) Governments should be held accountable, through human rights institutions and courts, for upgrading informal settlements in conformity with international human rights standards. Upgrading plans should also be reviewed and overseen by an independent authority able to receive complaints and hold hearings and information sessions within the community. Residents must be able to challenge any decision, to present alternative proposals and to articulate their demands and development priorities;⁴⁰

(d) In order to provide alternatives to informal settlements, serviced land should be set aside for the social production of housing with legal security of tenure. If the State is unable to provide built housing or if the residents prefer, building materials and technical support should be made available for self-construction.

Guideline No. 8. Address discrimination and ensure equality

43. Discrimination, exclusion and inequality are at the heart of almost all violations of the right to housing. Housing systems have intensified social, economic, political and spatial inequalities.

44. Refugees, asylum seekers, migrants, especially those who are undocumented, internally displaced persons, stateless persons, persons with disabilities, children and youth, indigenous peoples, women, lesbian, gay, bisexual, transgender and intersex persons, older persons and members of racial, ethnic and religious minorities are disproportionately represented among those living in homelessness, in informal accommodation and

³⁵ Ibid., para. 12.

³⁶ Ibid., para. 44, and A/HRC/40/61, para. 41.

³⁷ See also the New Urban Agenda.

³⁸ A/73/310/Rev.1, paras. 72 ff. See also *Ben Djazia and Bellili v. Spain*, para. 15.1.

³⁹ Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 38).

⁴⁰ Ibid., paras. 37–38.

inadequate housing, and are often relegated to the most marginal and unsafe areas.⁴¹ These groups often experience intersectional discrimination as a result of their housing status.⁴²

45. Discriminatory exclusion from housing greatly exacerbates and reinforces socioeconomic inequality for members of these groups, depriving them of access to employment or productive land and forcing them to pay higher costs for services. In many States, the ability to buy and own housing or land has become the dominant factor in perpetuating inequality.

46. While many States have adopted equality or non-discrimination legislation that applies to housing, generally the laws have yet to be applied effectively to address entrenched systemic discrimination in housing or to require significant reform in housing and land policies that exacerbate inequality.

47. The Committee on Economic, Social and Cultural Rights has emphasized that guarantees of equality and non-discrimination should be interpreted, to the greatest extent possible, in ways that facilitate the full protection of the right to adequate housing.⁴³

48. Implementation measures:

(a) States must prohibit all forms of discrimination in housing by public or private actors and guarantee not only formal but also substantive equality, which requires taking positive measures to address housing disadvantages and ensure equal enjoyment of the right to housing;⁴⁴

(b) The right to equality requires that housing and related social programmes be non-discriminatory in their effect. It also requires that such programmes be adequate to alleviate the effects of discrimination against marginalized groups and address their unique circumstances.⁴⁵ Courts, tribunals and human rights bodies should provide both individual and programmatic remedies to discrimination, including measures to address the structural causes of inequality in housing;

(c) The right to equality in housing should be rigorously applied to eliminate any adverse effect on disadvantaged groups. Development or redevelopment plans should include housing for disadvantaged groups and provide for the right of return if relocation is required and for meaningful engagement throughout the process;

(d) States should incorporate into their laws, policies and administrative practices distinctive standards and approaches to equality that have been developed by and for particular groups. For example:

(i) States must ensure children's right to adequate housing, inter alia by applying the principle of the best interests of the child and, where appropriate, including children in relevant decision-making. Where a lack of housing threatens the ability of parents to remain with their children, appropriate housing and related support must be provided to avoid family separation.⁴⁶ Particular attention should also be given to young adults exiting child welfare institutions to ensure they have access to affordable and adequate housing and to prevent homelessness;

(ii) States must ensure the right to housing of indigenous peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. This means guaranteeing the right of indigenous peoples to be actively involved in developing and determining housing and other social and economic programmes and, as far as possible, to administer such programmes through their own

⁴¹ A/70/270, para. 38.

⁴² A/69/274, para. 46.

⁴³ E/C.12/2019/1, para. 9.

⁴⁴ Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 37.

⁴⁵ Committee on the Elimination of Racial Discrimination, general recommendations No. 27 and No. 34.

⁴⁶ See, e.g., Convention on the Rights of the Child, art. 27, and Committee on the Rights of the Child, general comment No. 21.

institutions.⁴⁷ States must also fully comply with relevant domestic treaties and agreements concluded with indigenous peoples;⁴⁸

(iii) States must recognize that the right to adequate housing has a particular meaning for persons with disabilities and that the Convention on the Rights of Persons with Disabilities imposes distinct obligations on them, such as the rights to reasonable accommodation, living independently and being included in the community. The disproportionate number of persons with disabilities living in homelessness constitutes a violation of the substantive right to equality and must be addressed as such;

(iv) States must recognize that housing systems are often based on and reinforce racial segregation and inequality. As guaranteed in the International Convention on the Elimination of All Forms of Racial Discrimination, the right to equality should be interpreted substantively to include the equal enjoyment of the right to adequate housing without discrimination on grounds of race, colour or national or ethnic origin and requires positive measures to address ongoing legacies of colonization, apartheid, occupation and racism;⁴⁹

(v) States must recognize lesbian, gay, bisexual, transgender and intersex persons as belonging to groups that often suffer stigmatization, discrimination and criminalization with respect to housing and experience widespread homelessness. They must be included in legal protections from discrimination in housing and protected from being forcibly evicted from their homes.

Guideline No. 9. Ensure gender equality in housing and land

49. As a result of discrimination and inequality in housing, many women and girls live in insecure, undignified and unsafe conditions, at increased risk of homelessness and violence.⁵⁰ Women often lack security of tenure and equal rights to land and property as a result of inheritance laws, customs and traditions that discriminate directly or indirectly against them. Their access to housing, land and property, including through access to credit, is frequently dependent on a relationship with a male family member and is often jeopardized upon the dissolution of their marriage or the death of their spouse.

50. Inadequate housing has particularly adverse impacts for women and girls. For example, harassment, physical attacks, rape and even death are not uncommon when women and girls have to walk to fetch safe drinking water or access sanitation facilities. Lack of access to latrines and to privacy affects women and girls adversely, particularly during menstruation. Evictions too have a disproportionate impact on women, who are often on the front lines defending their homes and dealing with the aftermath of eviction.

51. Domestic violence is one of the leading causes of women's homelessness. It is often the case that the woman experiencing violence, rather than the male perpetrator, must leave the home. Because women avoid living on the streets, particularly if they are caring for children, they are more likely to be found among the "hidden homeless" and denied the benefit of programmes directed at persons in more visible forms of homelessness. The lack of alternative housing options for women experiencing violence in the home places their security and lives at risk.⁵¹

52. The right to housing must be recognized as a central component of women's right to substantive equality, which requires that laws, policies and practices be altered so that they

⁴⁷ United Nations Declaration on the Rights of Indigenous Peoples, art. 23. See also A/74/183.

⁴⁸ United Nations Declaration on the Rights of Indigenous Peoples, art. 37.

⁴⁹ Art. 5 (e) (iii).

⁵⁰ A/HRC/19/53, para. 3. See also OHCHR, *Women and the Right to Adequate Housing* (New York, 2012), A/74/183, paras. 45–47, A/HRC/31/54, paras. 34 ff. and A/73/310/Rev.1, paras. 83 ff.

⁵¹ OHCHR, *Women and the Right to Adequate Housing*, p. 76. See also A/71/310, para. 24, and A/HRC/35/30, para. 73.

do not maintain, but rather alleviate, the systemic disadvantages that women experience.⁵² Women must be empowered to articulate and claim the right to housing in a manner that addresses their experience of housing disadvantage in all of its dimensions.

53. Implementation measures:

(a) The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized in national housing laws, policies and programmes.⁵³ In that regard, States should amend or repeal, as appropriate, provisions in family, inheritance and other relevant laws that restrict women's access to housing and land title. Customary law provisions that discriminate against women and contravene international human rights norms should not be recognized or applied;⁵⁴

(b) Women should be guaranteed equal access to credit, mortgages, home ownership and rental housing, including through subsidies, to ensure that their lower incomes do not exclude them from housing.⁵⁵ Women's economic activities, which often take place in the home, must be supported and protected, particularly during upgrading efforts or relocation;

(c) In situations of household violence, legislation should ensure that, regardless of whether a woman has title, formal ownership or tenancy rights, she is able to remain in her own home where appropriate and have the perpetrator removed.⁵⁶ States should provide immediate access to emergency shelters and prompt access to front-line crisis services. Long-term housing programmes, including those for the allocation of permanent public or social housing, should prioritize women and families escaping violence;⁵⁷

(d) Women should have a guaranteed right to participate in all aspects of housing-related policymaking, including housing design and construction, community development and planning, and transportation and infrastructure. This applies as well to women living in informal housing or in camps.

Guideline No. 10. Ensure the right to adequate housing for migrants and internally displaced persons⁵⁸

54. In recent years migrants have become particularly vulnerable to violations of the right to housing. Migrants in transit have been compelled to live in very precarious conditions, such as in informal camps, in forests, fields, abandoned houses, train stations or other public spaces, with no sanitary facilities, limited access to safe food and water sources, and often exposed to forced evictions. Once settled, migrants often live in grossly inadequate housing conditions in geographically segregated areas with poor access to

⁵² *S.C. and G.P. v. Italy* (E/C.12/65/D/22/2017), para. 8.2.

⁵³ See the Committee on Economic, Social and Cultural Rights' general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, para. 28, the Convention on the Elimination of All Forms of Discrimination against Women, arts. 2 (f), 15 and 16, the Committee on the Elimination of Discrimination against Women's general recommendations No. 21 (1994) on equality in marriage and family relations, No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution and No. 34 (2016) on the rights of rural women, the Human Rights Committee's general comment No. 28 (2000) on the equality of rights between men and women, para. 19, and A/HRC/19/53, para. 68.

⁵⁴ See the Committee on the Elimination of Discrimination against Women's general recommendations No. 21, paras. 28 and 33, and No. 34, paras. 58 and 77.

⁵⁵ Convention on the Elimination of All Forms of Discrimination against Women, art. 13.

⁵⁶ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, art. 52. See also A/HRC/19/53, para. 36, and A/HRC/35/30.

⁵⁷ Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, paras. 24 ff. See also A/HRC/35/30.

⁵⁸ The term "migrant" is used here without prejudice to the protection regimes that exist under international law for specific legal categories of non-nationals, including refugees, asylum seekers, stateless persons, trafficked persons and migrant workers.

services and facilities, with no security of tenure, facing discrimination, poverty and economic marginalization.⁵⁹

55. Around the world, camps for refugees and internally displaced persons are often overcrowded and provide inadequate shelter and services. Sometimes they provide no basic services at all. Often, they act as an inappropriate substitute for long-term housing.

56. Migrant workers are often housed by employers in substandard conditions, for example in transport containers or makeshift accommodation devoid of basic facilities.⁶⁰ Domestic workers residing in households have been forced to sleep in kitchens or on bathroom floors, deprived of privacy and vulnerable to abuse and violence.

57. Such conditions are made worse by anti-migrant rhetoric that is increasingly translated into laws and policies. Access to homeless shelters is sometimes restricted to nationals or to documented migrants; in some jurisdictions, it is a criminal offence to rent accommodation to undocumented migrants.

58. Implementation measures:

(a) States must ensure the equal enjoyment of the right to housing without discrimination for all internally displaced persons and all migrants, regardless of documentation, in conformity with international human rights and humanitarian law.⁶¹ States must ensure coordination between migration, internal displacement and housing programmes to ensure the right to adequate housing in all contexts. Reception and other centres for migrants must meet standards of dignity, adequacy and protection of the family and other requirements of international human rights law and international humanitarian law.⁶² Migrant children should never be separated from their parents or guardians, and families that have been separated by displacement should be reunited as quickly as possible;⁶³

(b) Any differential treatment in qualifying for different types of housing based on immigration status must be reasonable and proportional, and not compromise the protection of the right to housing for all people within the State's territory or jurisdiction.⁶⁴ There should be no discrimination on the basis of immigration status in access to emergency shelters and States should ensure that housing providers are neither permitted nor required to convey information to authorities that would discourage undocumented migrants from seeking shelter for themselves and their families. Housing providers, civil society organizations and individuals should not be penalized for assisting migrants to secure shelter or housing.⁶⁵ Access to longer-term housing must be provided, where needed, as soon as possible;

(c) Effective protective mechanisms must be in place for migrants to secure effective remedies for violations of the right to housing and non-discrimination. Specific protective measures and remedies are required for migrant workers living in housing

⁵⁹ E/C.12/2017/1, A/HRC/14/30, paras. 14 ff., and OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*.

⁶⁰ See, e.g., A/HRC/14/30, para. 49, and A/HRC/40/61/Add.1, para. 81.

⁶¹ See the Committee on Economic, Social and Cultural Rights' general comment No. 20, the Committee on the Elimination of Racial Discrimination's general recommendation No. 30 (2004) on discrimination against non-citizens, para. 32, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 43 (1) (d). See also the Global Compact for Safe, Orderly and Regular Migration, objective 15, and the global compact on refugees (A/73/12 (Part II), paras. 78–79).

⁶² See, e.g., OHCHR and the Global Migration Group, *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations* (Geneva), principle 11.

⁶³ See the Guiding Principles on Internal Displacement, principle 17 ff.

⁶⁴ Committee on the Elimination of Racial Discrimination, general recommendation No. 30, para. 32.

⁶⁵ *Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations*, principle 13, para. 4.

provided by employers suffering grossly inadequate conditions or abuse, allowing them to be relocated to adequate accommodation and to re-employment without prejudice;⁶⁶

(d) Refugees and internally displaced persons who have been unlawfully or arbitrarily deprived of their former homes, lands, properties or places of habitual residence must be ensured a right to return consistent with the principles on housing and property restitution for refugees and displaced persons.⁶⁷

Guideline No. 11. Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing

59. Local and regional governments have been assigned crucial responsibilities related to the right to adequate housing in most States. These may include: producing and managing social housing and infrastructure, land-use planning, upgrading informal settlements and regulating investor-driven markets. Local governments can therefore play an essential role in the realization of the right to housing. They are closest to affected communities and better able to ensure participatory decision-making and to develop innovative solutions adapted to local circumstances.

60. However, local and regional governments are often inattentive to or unaware of their obligations with respect to the right to adequate housing under international human rights law. They are often allocated responsibilities without a commensurate allocation of resources, knowledge, capacity and accountability mechanisms for the realization of the right to housing.⁶⁸

61. In fact, forced evictions, discriminatory denials of services to informal settlements, homeless “sweeps” and the loss of affordable housing through speculation and financialization, are frequently perpetrated or facilitated by local governments.

62. The allocation of responsibilities for implementing the right to housing within a State is a matter of internal decision-making but must be consistent with the State’s obligation to realize the right to housing. It must be clear which government can be held accountable, and how, and there must be coordination among national, regional and local authorities for the realization of the right to housing.⁶⁹

63. Implementation measures:

(a) The obligations of local and regional governments to implement the right to housing within clearly delineated areas of responsibilities must be established in legislation.⁷⁰ Housing policies and programmes at all levels of government should be coordinated through national-level leadership and oversight as well as by intergovernmental bodies with an explicit mandate to promote and ensure compliance with the right to housing.⁷¹ Provision should be made for promptly resolving questions of jurisdiction on the basis of the principle that human rights should never be compromised by jurisdictional disputes;

(b) Local and regional governments should implement human rights-based housing strategies, as described in guideline No. 4 above, consistent with those implemented at the national level and establish their own monitoring and accountability

⁶⁶ See the Domestic Workers Recommendation, 2011 (No. 201), para. 7, of the International Labour Organization.

⁶⁷ E/CN.4/Sub.2/2005/17, annex. See also the Guiding Principles on Internal Displacement, A/64/255, para. 55, the *Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations*, principle 8, the Global Compact for Safe, Orderly and Regular Migration, objective 13, and the global compact on refugees, para. 60.

⁶⁸ A/HRC/28/62, para. 5, and A/HRC/42/22.

⁶⁹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 12.

⁷⁰ A/HRC/27/59, para. 31.

⁷¹ A/HRC/37/53, para. 51.

mechanisms. States must ensure that local or regional housing strategies are adequately resourced and that local governments have the capacity to implement them;

(c) The right to housing should be incorporated into relevant municipal laws, plans and programmes. Local governments should consider adopting human rights charters that protect the right to housing and provide access to justice or establish an ombuds office to address housing rights complaints and monitor the implementation of the right to housing;

(d) Indigenous governments have the right to develop and determine housing programmes that are consistent with international human rights law through their institutions of self-governance and in conformity with the United Nations Declaration on the Rights of Indigenous Peoples.⁷² States must ensure they have adequate resources to implement the right to housing.⁷³

Guideline No. 12. Ensure the regulation of businesses in a manner consistent with State obligations and address the financialization of housing

64. The private sector plays a significant role in most housing systems and in the realization of the right to housing. Investors, businesses and individuals develop, build, sell and rent housing. Financial institutions provide access to credit. Private households purchase, build or improve their own housing, and may rent it to others. The particular role played by various private actors in housing systems varies, but the State must ensure that all aspects of their involvement are consistent with States' obligations to realize the right to housing for all.

65. The role of private investment in housing has changed in recent years. Housing has become the commodity of choice for corporate financial institutions, a security for financial instruments that are traded remotely on global markets.⁷⁴ Institutional investors buy massive amounts of affordable and social housing (sometimes entire neighbourhoods), displacing lower-income families and communities. Wealthy individuals and corporations use residential real estate to park capital, avoid taxes or hide ill-gotten gains. This has resulted in inflated land and housing costs and, often, in significant proportions of housing stock being left vacant.⁷⁵ In rural areas, large-scale land acquisitions and speculation over farmland by private investors are displacing residents.⁷⁶

66. States have facilitated and encouraged the change in the role of the private sector in housing. They have provided tax breaks to real estate speculators, tax advantages for homeowners and "golden visas" to foreign investors. They have deregulated rental markets and encouraged development that primarily produces housing for the wealthy. Through legislative measures, policies and programmes, many States have treated housing as a commodity for trading and speculation, rather than as a social good and a human right.

67. A change in direction is urgently needed, and a new relationship between governments and the investors currently dominating the housing landscape must be forged. The Committee on Economic, Social and Cultural Rights has clarified that States violate their obligations with respect to the right to housing by failing to regulate the real estate market and the financial actors operating on that market so as to ensure access to affordable and adequate housing for all.⁷⁷

68. The obligations that States must impose on businesses directly involved in the development or ownership of housing are different in kind from those that apply to other

⁷² Arts. 4 and 23.

⁷³ United Nations Declaration on the Rights of Indigenous Peoples, art. 4. See also A/73/176, para. 5.

⁷⁴ A/HRC/34/51.

⁷⁵ Housing Europe, *The State of Housing in the EU 2019* (Brussels, September 2019).

⁷⁶ A/HRC/13/33/Add.2.

⁷⁷ General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, para. 18.

businesses that are not involved in providing for a good that is also a human right. States must regulate businesses in a manner that is consistent with all dimensions of States' obligations, including to fulfil the right to adequate housing. Ensuring that businesses refrain from activities that have a negative impact on human rights in housing through common approaches to due diligence is necessary but often not be sufficient. States may need to ensure, for example, not only that developers do not displace residents from affordable housing, but also that they produce needed affordable housing, that housing is not left vacant and that some of the profits from housing or other economic activities are redirected to ensure the availability of adequate housing for low-income households.⁷⁸

69. Implementation measures:

(a) States must regulate business in order to prevent investments having any negative impacts on the right to housing, including by:

- (i) Preventing any privatization of public or social housing that would reduce the capacity of the State to ensure the right to adequate housing;
- (ii) Maintaining a rental regulatory framework that preserves security of tenure and affordable housing for tenants, including through rent caps, controls or rent freezes where needed;
- (iii) Requiring full and public disclosure of all investments in residential housing to help prevent corruption, money-laundering, tax evasion and tax avoidance;
- (iv) Establishing independent monitoring bodies to oversee developments, business plans or private investor activity that may have a significant impact on the right to housing;
- (v) Imposing taxes on residential real estate and land speculation to curb the short-term resale of properties and on residential real estate left vacant;
- (vi) Removing preferential tax breaks on homeowners and on real estate investment trusts;
- (vii) Removing incentives for foreign residential real estate investment such as preferential visa and citizenship awards;

(b) States must regulate business to comply with States' obligation to realize the right to housing by all appropriate means, including by:

- (i) Adopting planning and development approval criteria to ensure that any proposed housing development responds to the actual needs of residents, including affordable housing for low-income households and employment opportunities;
- (ii) Adjusting taxation measures to incentivize affordable housing and discourage speculation or ownership of housing or land left vacant;
- (iii) Enabling innovative financing models for affordable housing or upgrading projects;
- (iv) Requiring the negotiation of binding, human rights-compliant social benefits agreements with local authorities, residents and civil society organizations before any development is approved;
- (v) Requiring pension funds and other investors to facilitate independent human rights impact assessments prior to investments being approved to ensure investments do not contribute to violations of the right to housing;

(c) States should support the important role that households play in producing and upgrading their own housing (through the social production of housing) by ensuring access to land, including through collective or cooperative ownership, commons and other alternative forms of tenure and affordable and sustainable materials;

⁷⁸ Ibid.

(d) All laws and policies related to rent and mortgage arrears and foreclosures should be reviewed to ensure consistency with the right to adequate housing, including the obligation to prevent any eviction resulting in homelessness.⁷⁹ States should require banks and other lenders to remove barriers to access to credit for women, young families, residents of informal settlements and others in need of housing finance.

Guideline No. 13. Ensure that the right to housing informs and is responsive to climate change and address the effects of the climate crisis on the right to housing

70. Natural disasters and the climate crisis have enormous impacts on the enjoyment of the right to housing, with exponential increases in these effects anticipated in decades to come. Climate-fuelled disasters were the primary driver of internal displacement during the past decade, forcing an estimated 20 million people a year from their homes.⁸⁰ Those living in homelessness or lacking access to resilient or secure housing are the most adversely affected, as they often live in areas that are vulnerable to floods, hurricanes and cyclones, storm surges, mudslides, earthquakes and tsunamis. Moreover, States taking disaster risk management measures often fail to consider their effects on vulnerable communities and their right to housing.

71. The manner in which the right to housing is to be realized also has implications for climate change. It has been estimated that the building and construction sector accounts for 39 per cent of global energy-related carbon dioxide emissions, most of which is concentrated in middle- and high-income countries.⁸¹ It is in low-income countries, however, that the greatest amount of construction will be required if target 11.1 of the Sustainable Development Goals are to be achieved. States individually and the international community as a whole must respond urgently to the climate crisis while also ensuring access to sustainable housing, prioritizing those most in need.

72. Implementation measures:

(a) The right to adequate housing should be integrated into strategies for the adaptation to and mitigation of climate change, as well as in planning, preparing and implementing strategies for addressing climate change displacement.⁸² States should ensure that these strategies do not undermine or impede the realization of the right to adequate housing;

(b) In situations where communities are particularly vulnerable to the effects of climate change and climate change-related disasters, such as those living on or near waterways and shorelines, priority should be given to adaptation measures to preserve existing communities. In that regard, States must consult with residents to identify the measures needed for their protection. Such measures may include ensuring that communities are able to retain technical experts, installing protective infrastructure, moving some households to safer sites within the community and ensuring that adequate resources are available for the implementation of such measures;⁸³

(c) While making every effort to mitigate climate change, States should conduct thorough analyses of anticipated climate displacement, determine likely time frames and identify communities at risk and possible relocation sites. Where relocation is deemed necessary or chosen by the community, it should be implemented in a manner consistent with the basic principles and guidelines on development-based evictions and displacement and with guidelines No. 6 and No. 7 above;

⁷⁹ Committee on Economic, Social and Cultural Rights, general comment No. 7, para. 16.

⁸⁰ Oxfam, "Forced from home: climate-fuelled displacement", Oxfam Media Briefing (2 December 2019).

⁸¹ United Nations Environment Programme and International Energy Agency, *Towards a Zero-emission, Efficient and Resilient Buildings and Construction Sector: Global Status Report 2017* (2017), p. 6.

⁸² A/HRC/16/42.

⁸³ A/64/255, para. 74.

(d) States must work with affected communities to develop and promote environmentally sound housing construction and maintenance to address the effects of climate change while ensuring the right to housing. The particular vulnerability of indigenous peoples to climate change must be recognized and all necessary support should be provided to enable indigenous peoples to develop their own responses. Forests and conservation areas must be protected in a manner that fully respects the rights of indigenous peoples to their lands and resources and to their traditional and environmentally sustainable practices in housing.

Guideline No. 14. Engage in international cooperation to ensure the realization of the right to adequate housing

73. The current human rights crisis in housing is global in nature and cannot be effectively addressed without international cooperation and assistance. Many actors involved in housing operate at the transnational level and deal with complex corporate structures that pose considerable obstacles to accountability. Regulating global capital flows and preventing the parking of resources into residential real estate to avoid taxation and for money-laundering purposes all require international cooperation.

74. International financial institutions and development banks have applied approaches that are detrimental to the realization of the right to housing. For example, they have imposed deregulation, the liberalization of housing markets and austerity measures, including the selling of social housing, and required mortgage finance programmes that do not assist the lowest-income households.⁸⁴

75. Articles 2 (1) and 11 of the International Covenant on Economic, Social and Cultural Rights refer to international cooperation and assistance as means to achieve the full realization of the right to housing, recognizing its essential importance. Moreover, States parties to the Covenant are obliged to ensure the realization of the right to housing by all appropriate means, which includes international cooperation.⁸⁵

76. Implementation measures:

(a) States should recognize international cooperation as a firm legal obligation where it is necessary for the realization of the right to housing. This includes controlling global capital flows into residential real estate markets and preventing and combating transborder tax evasion and avoidance, which significantly limits the resources of States to realize the right to adequate housing;⁸⁶

(b) States should avoid conduct that would create a foreseeable risk of impairing the enjoyment of the right to housing in other States, should adopt legislation to prevent violations of the right to housing abroad by corporations or other investors that are domiciled in their territory and/or jurisdiction and should ensure access to justice for such violations within domestic courts;⁸⁷

(c) States should assess the impact on the right to adequate housing of trade and investment agreements prior to entering into them, and should include in such agreements a provision explicitly referring to their human rights obligations in respect of housing. Existing agreements should be interpreted in ways that do not impair States' ability to realize the right to housing;⁸⁸

(d) The role of international financial institutions and of development, humanitarian and other international organizations should be aligned with the promotion of the realization of the right to housing. Development banks and financial institutions should establish safeguard policies covering all aspects of the right to adequate housing.

⁸⁴ A/HRC/37/53, para. 134, and A/73/310/Rev.1, paras. 99 ff.

⁸⁵ See also the Declaration on the Right to Development, art. 3.

⁸⁶ Committee on Economic, Social and Cultural Rights, general comment No. 24, para. 37.

⁸⁷ *Ibid.*, para. 26.

⁸⁸ Guiding principles on human rights impact assessments of trade and investment agreements.

Independent complaints mechanisms must be available where activities or projects of international or regional financial institutions or development banks fail to support the realization of the right to housing of those most in need.

Guideline No. 15. Ensure effective monitoring and accountability mechanisms

77. Independent monitoring of the implementation of the right to housing is a central component of the obligation to progressively realize the right.⁸⁹ States tend to misunderstand the obligation to monitor progress as being merely a matter of collecting and disseminating data about housing programs, homelessness, expenditures and aggregate demographics. Evidence considered is often restricted to statistical information, without qualitative evidence based on experiences of rights holders. In many countries disaggregated data based on gender, race, disability, age, family status and income are not collected due to either the lack of technical capacity or absence of legislation allowing it. Monitoring is often conducted by governments themselves, rather than by independent institutions.

78. As noted by the Committee on Economic, Social and Cultural Rights, human rights institutions (or similar bodies mandated to focus specifically on the right to housing) can play an important role in identifying appropriate goals and benchmarks, providing research, monitoring compliance and examining complaints.⁹⁰ If States are to take seriously their commitment under target 11.1 of the Sustainable Development Goals, they must institute rigorous independent monitoring of progress, based on realistic goals and timelines and with the means to hold Governments and others accountable.

79. Implementation measures:

(a) Independent monitoring bodies should be mandated and properly resourced to monitor the realization of the right to housing in a transparent and participatory manner. They should have the capacity to hear complaints from concerned people or groups, undertake visits, conduct investigations, commission surveys and convene public hearings to gather information. Public authorities should be required to provide a response to reports from monitoring bodies and to take follow-up action within a reasonable period of time. Parliamentary hearings should be utilized to provide periodic public review of progress and effective government responses;

(b) Monitoring progress on the implementation of the right to housing should be focused on assessing compliance with the obligation to progressively realize the right. It should include the collection of qualitative and quantitative data related to dignity and the experience of rights holders with respect to all aspects of the right to housing, including security of tenure, availability of services, affordability, habitability, accessibility, location, cultural adequacy, homelessness and evictions. Statistical and qualitative information with appropriate safeguards should also be collected on the housing circumstances of groups facing systemic discrimination, on structural barriers to housing and on the outcomes of measures taken to address such barriers. Major trends and emerging challenges should also be identified;

(c) Progress should be assessed in relation to capacity and available resources, and whether Governments have made reasonable efforts to meet established targets and timelines in accordance with housing strategies and the Sustainable Development Goals;

(d) Monitoring should extend to all sectors of housing systems, including private business enterprises and real estate markets.⁹¹

⁸⁹ International Covenant on Economic, Social and Cultural Rights, art. 16, and Committee on Economic, Social and Cultural Rights, general comments No. 3, para. 11, and No. 4, para. 13.

⁹⁰ Committee on Economic, Social and Cultural Rights, general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

⁹¹ Guiding Principles on Business and Human Rights, principle No. 5.

Guideline No. 16. Ensure access to justice for all aspects of the right to housing

80. The provision of legal remedies for the violation of the right to housing is a core component of States' obligation to ensure the realization of this right.⁹² As stated by the Committee on Economic, Social and Cultural Rights, many component elements of the right to adequate housing are closely bound up with the provision of domestic legal remedies to ensure the effective enjoyment of the right.⁹³ Yet courts and tribunals are often experienced by those who are living in informal settlements or homelessness as places where evictions are ordered or criminalizing sanctions imposed, rather than as venues where the right to housing can be claimed.⁹⁴

81. As noted by the Special Rapporteur in her report on access to justice, violations of the right to housing are as much failures in the administration of justice to ensure meaningful accountability and access to effective remedies as they are failures of housing programmes.⁹⁵

82. States have an immediate obligation to ensure access to justice for those whose right to housing has been violated, including through failures to adopt reasonable measures for its progressive realization.⁹⁶ In discharging their obligation, States should follow the 10 key principles identified by the Special Rapporteur.⁹⁷

83. Implementation measures:

(a) Access to justice for the right to housing should be ensured by all appropriate means, through courts, administrative tribunals, human rights institutions and informal or customary community-based justice systems. Hearings and other procedures should be timely, accessible, procedurally fair, enable full participation of affected individuals and groups and ensure effective remedies within a reasonable time frame. Where effective remedies rely on administrative or quasi-judicial procedures, recourse to courts should also be available;⁹⁸

(b) Access to justice should be ensured for all components and dimensions of the right to housing that are guaranteed under international human rights law, covering not just the right to a physical shelter, but to a home in which to live in security, peace and dignity; not just protection from eviction or other State action, but also from State neglect and inaction and failure to take reasonable measures to progressively realize the right to housing. States should revoke legal provisions suggesting that the right to adequate housing is not justiciable under domestic law and should desist from making this argument before courts. Where the right to housing is not enshrined in national or constitutional law, access to effective judicial remedies can and should be ensured by recognizing the interdependence and indivisibility of the right to housing with other rights, such as the rights to life, health and non-discrimination;

(c) Individuals and organizations representing them should have access to legal aid or other necessary assistance to enable them to participate in legal processes. Institutions, equality promotion bodies and civil society organizations should have legal standing to pursue claims to the right to housing on behalf of individuals and groups. Remedies should address both individual and systemic violations of the right to housing;

(d) States should ensure access to justice for violations of the right to housing by transnational corporations, including by establishing parent company or group liability

⁹² Committee on Economic, Social and Cultural Rights, general comments No. 3, para. 5, and No. 4, para. 17.

⁹³ *I.D.G. v. Spain*, para. 11.1.

⁹⁴ *Ibid.*, para. 4.

⁹⁵ A/HRC/40/61, para. 2.

⁹⁶ Committee on Economic, Social and Cultural Rights, general comments No. 3 and No. 9 (1998) on the domestic application of the Covenant. See also *I.D.G. v. Spain*, para. 11.3.

⁹⁷ A/HRC/40/61.

⁹⁸ Committee on Economic, Social and Cultural Rights, general comment No. 9.

regimes, enabling human rights-related class actions and public interest litigation, facilitating access to relevant information and the collection of evidence abroad and enacting domestic legislation that holds investors and corporations domiciled in the State accountable for actions affecting the right to housing in other countries.⁹⁹

⁹⁹ See the Committee's general comment No. 24, para. 44.