

**Human Rights Council****Forty-seventh session**

21 June–9 July 2021

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Twenty years of promoting and protecting the right to
adequate housing: taking stock and moving forward****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, Balakrishnan Rajagopal****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, submits the present report pursuant to Human Rights Council resolutions 15/8 and 43/14. The report contains an assessment of achievements and contributions made by the successive Special Rapporteurs at the local, country and global levels since the mandate was established in the year 2000 and offers a vision of the current Special Rapporteur's substantive priorities during the coming years.

Core contributions of the mandate have been the development of guidelines, awareness-raising through more than 30 thematic reports, 34 country visits and the participation in numerous international events and other activities. More than 380 communications to States and non-State actors have led to the prevention of some violations of the right to adequate housing or provided increased public scrutiny of forced evictions, homelessness, inadequate housing conditions and other violations of the right to adequate housing.

However, progress towards realizing the right to adequate housing globally has been limited. Over recent decades, the percentage of the urban population living in informal settlements with insufficient security or tenure has grown. Homelessness has been on the increase and the coronavirus disease (COVID-19) pandemic has resulted in increasing housing insecurity for many. Many cities have become increasingly segregated along social, racial, ethnic and other lines, undermining equal access to the right to adequate housing, public services and other rights. Homeownership has become increasingly concentrated in the hands of few individuals who own multiple housing units, and housing has become

* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.



increasingly a tool for investment and the enrichment of large real estate investors, while more and more people struggle to find affordable housing in cities.

Large-scale development projects, expansion of agribusiness, logging, natural conservation initiatives and climate change mitigation measures are increasingly resulting in forced evictions and displacements. Insecure land tenure remains a major challenge for the realization of the right to adequate housing for too many people, especially those relying on customary tenure systems in rural areas.

Moreover, the climate crisis has increased the ferocity of natural disasters and resulted in climate-induced conflict and displacement. Conflict, disaster, natural hazards and development-induced displacement and forced evictions have sharply increased.

Based on an analysis of major trends, the Special Rapporteur identifies seven substantive priorities, while offering clarifications of key definitions of terms, such as “standard of living”.

The Special Rapporteur also outlines how he would like to contribute to protecting the right to adequate housing in collaboration with States, international organizations and United Nations agencies, local governments, parliamentarians, the judiciary, national human rights institutions, the business community, civil society and housing rights defenders.

Contents

	<i>Page</i>
I. Introduction	4
II. Contributions of the mandate	5
A. Development of guidelines and standard setting	5
B. Thematic reports	6
C. Country visits.....	7
D. Communications	9
E. Public statements	10
F. Making use of new opportunities.....	11
III. Challenges for the realization of the right to adequate housing	12
A. Clarifying definitions: evictions, displacement, access to land and standard of living.....	12
B. Impact of the coronavirus disease (COVID-19) pandemic on the right to adequate housing	14
C. Discrimination and spatial segregation.....	14
D. Climate change and rights-compliant resilient housing	15
E. Conflict, displacement and the humanitarian response to housing	16
F. Resettlement and relocation: the need for guidelines	17
G. Rethinking land governance, eminent domain and solidarity economy	17
H. Affordable and accessible housing and the role of public and private actors	18
IV. Way forward and conclusions	19

I. Introduction

1. Several factors contributed to the establishment of the mandate 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, at the turn of the last millennium. While the right to adequate housing was already enshrined in article 25 (1) of the Universal Declaration of Human Rights (1948) and in article 11 of the International Covenant on Economic, Social and Cultural Rights (1966), the Committee on Economic, Social and Cultural Rights was the first international human rights mechanism to summarize the content of the right to adequate housing in its general comment No. 4 (1991) and later in its general comment No. 7 (1997) on forced evictions. However, the human rights mechanisms of the United Nations continued to receive reports of serious violations of the right to adequate housing, including forced evictions and large-scale displacements caused by internal conflicts, natural disasters, development projects and mega-events.
2. Parallel to those efforts, in 1992, the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights appointed a Special Rapporteur on promoting the realization of the right to adequate housing, to undertake thematic research on the right to adequate housing and present reports to it.
3. Rajindar Sachar held that function for four years (1992–1995). He submitted two progress reports,¹ in the second proposing a draft international convention on housing rights. In his final report, issued in 1995, he stressed the need to render the right to adequate housing justiciable, proposed core indicators for the right to adequate housing, and advocated for the further development of an international convention on housing rights. He also recommended that the Commission of Human Rights appoint a special rapporteur on housing rights.²
4. Several years later, on 17 April 2000, the Commission on Human Rights adopted resolution 2000/9, in which it decided to appoint a special rapporteur whose mandate would focus on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in that context. One reason for the establishment of the mandate was the discrimination experienced by women, racial, religious and ethnic groups and minorities, persons with disabilities and other social groups in relation to the right to adequate housing. The establishment of the mandate and of others – such as the special rapporteurs on the rights to education, food, health and water and sanitation – contributed also to ending the imbalance in the system of special procedures which appeared at that time to reflect a problematic preference for civil and political rights over economic, social and cultural rights.
5. The Commission on Human Rights appointed Miloon Kothari as the first holder of that mandate, a role he fulfilled from 2000 to 2008. In May 2008, the Human Rights Council appointed Raquel Rolnik, followed by Leilani Farha in 2014. In April 2020, the Council appointed Balakrishnan Rajagopal as Special Rapporteur.
6. The mandate has now been in existence for slightly more than 20 years. The present report takes stock of the achievements made and the ongoing challenges facing the realization of the right to adequate housing and the mandate of the Special Rapporteur. It also outlines seven priority areas identified by the current Special Rapporteur to address new and ongoing challenges for the realization of the right to adequate housing and clarification of the meaning of key terms such as “displacement” and “standard of living”.
7. To inform the present report, the Special Rapporteur held two virtual consultations, on 7 and 8 October 2020, with United Nations agencies, local governments and civil society organizations. He also participated in a joint event with all his predecessors to mark the twentieth anniversary of the mandate. In addition, an online questionnaire was published. The Special Rapporteur would like to thank those States, national human rights institutions and civil society organizations that either replied to the online questionnaire or sent a written

¹ E/CN.4/Sub.2/1993/15 and E/CN.4/Sub.2/1994/20.

² E/CN.4/Sub.2/1995/12.

submission. All the submissions received are available on the website of the Special Rapporteur.³

II. Contributions of the mandate

A. Development of guidelines and standard setting

8. One of the core contributions of the mandate of the Special Rapporteur has been the development of human rights guidelines anchored in existing human rights treaty provisions and their interpretation by United Nations treaty bodies. The guidelines reflect legal obligations of States and good practices to address human rights challenges. The previous Special Rapporteurs should be commended for developing these guidelines, which were the product of intensive consultations with States, human rights experts, representatives of United Nations agencies, national human rights institutions and civil society.

9. While such guidelines do not have the status of treaty law, they make a meaningful and undisputed contribution to the protection and realization of human rights. The basic principles and guidelines on development-based evictions and displacement, developed by the first holder of the mandate, Miloon Kothari, have been essential in addressing the issue of forced evictions.⁴ They aim at reducing as much as possible development-based evictions and set out core human rights standards prior, during and after any eviction, if it cannot be avoided.

10. While forced evictions violating international human rights standards continue to be reported to the Special Rapporteur nearly on a daily basis, the basic principles and guidelines have been incorporated into national law in several countries, such as Kenya, and have also been referred to in the jurisprudence of some appellate courts. While adherence in practice remains a matter of concern, international development banks have been held to account using advocacy that draws upon the guidelines. States, international financial and development institutions and business enterprises undertaking development projects need to ramp up their efforts to ensure that the basic principles and guidelines are not only respected during the project development or approval, but during and after project implementation as well.

11. More efforts are needed in nearly all jurisdictions to ensure that national law governing eviction procedures is made fully compliant with international human rights standards, including the basic principles and guidelines on development-based evictions and displacement. Furthermore, guidance to ensure that people and communities who have been relocated enjoy at least similar levels of enjoyment of the rights to adequate housing, water and sanitation, food and work remains underdeveloped. Relocated communities and individuals are often not provided with effective legal remedies and fail to receive adequate compensation and redress.

12. In 2013, Raquel Rolnik developed the guiding principles on security of tenure for the urban poor, which aim to assist States and other relevant actors in addressing the current tenure insecurity crisis faced by the urban poor in an increasingly urbanized world.⁵ The guidelines encourage States to improve security of tenure by recognizing and ensuring diverse forms of tenure, to give priority to in situ solutions and upgrading of housing as opposed to promoting large-scale evictions and demolitions under the guise of urban renewal, to promote the social function of property, to strengthen women's security of tenure and to ensure respect for security of tenure by business enterprises. The guidelines have been instrumental in entrenching security of tenure as a key component of the right to adequate housing.

13. In 2019, Leilani Farha developed guidelines for the implementation of the right to adequate housing, which set out for States and other actors a number of concrete and practical

³ See www.ohchr.org/EN/Issues/Housing/Pages/CFI_20years_SR_adequate_housing.aspx.

⁴ A/HRC/4/18, annex I.

⁵ A/HRC/25/54.

implementation measures.⁶ The guidelines call upon States to recognize the right to adequate housing as a fundamental and enforceable human right in their jurisdictions; to take immediate steps to ensure the progressive realization of the right to adequate housing and the meaningful participation of individuals and communities in the design, implementation and monitoring of housing policies; to develop and implement rights-based national housing strategies; to eliminate homelessness and stop the criminalization of persons living in homelessness; and to ensure effective monitoring and accountability mechanisms of the right to adequate housing, including access to justice.

14. The ability of the United Nations human rights experts to respond quickly to unforeseen and unprecedented developments became evident in their response to the coronavirus disease (COVID-19) pandemic. Through a series of virtual consultations with human rights and housing rights experts, the previous mandate holder, Leilani Farha, developed a set of COVID-19 guidance notes aimed at ensuring protection of the right to adequate housing during the pandemic as an essential element to combat the pandemic.⁷ The guidance notes called for a moratorium on evictions; for the protection of residents in informal settlements; and for special measures to protect persons in a situation of homelessness, renters and mortgage payers. Many Governments, housing experts and civil society organizations relied on the guidelines to develop their own tailored response to the pandemic.

15. On taking up office, the current Special Rapporteur took a lead in developing jointly with fellow experts a questionnaire on the impact of the COVID-19 pandemic on human rights. The questionnaire elicited an unprecedented amount of responses and submissions, and informed his first thematic report to the General Assembly, containing key recommendations to mitigate the impact of the pandemic on the right to adequate housing and to address the long-standing housing exclusion and discrimination that became visible during the crisis.⁸

16. The mandate of the Special Rapporteur on housing has also contributed to the clarification of human rights law and standards by other human rights mechanisms. Previous Special Rapporteurs provided inputs to general comments developed by treaty bodies, such as general comment No. 21 (2017) on children in street situations of the Committee on the Rights of the Child and general comment No. 36 (2018) on the right to life of the Human Rights Committee.⁹ The current Special Rapporteur will continue to engage with United Nations and regional human rights mechanisms in the development and clarification of human rights standards. One of his forthcoming activities will be to contribute to the draft general comment on land and economic, social and cultural rights, currently under consideration by the Committee on Economic, Social and Cultural Rights.¹⁰

17. A core focus of the work of the current Special Rapporteur will be to enhance awareness of relevant human rights standards and to assist States to implement them. As a first step, the website of the Special Rapporteur has been revamped and the listing of international and regional human rights standards relating to the right to adequate housing updated, facilitating access to relevant treaty norms, general comments of United Nations human rights treaty bodies, United Nations declarations, International Labour Organization labour standards, World Health Organization guidelines, and guiding principles developed by United Nations human rights mechanisms and the Special Rapporteur.¹¹

B. Thematic reports

18. Since the mandate was established, 33 thematic reports have been submitted to the General Assembly and the Human Rights Council addressing various aspects relating to the

⁶ A/HRC/43/43.

⁷ See www.ohchr.org/EN/Issues/Housing/Pages/COVID19RightToHousing.aspx.

⁸ A/75/148.

⁹ See www.ohchr.org/EN/Issues/Housing/Pages/Activities.aspx.

¹⁰ See www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-draft-GC-land.aspx.

¹¹ See www.ohchr.org/EN/Issues/Housing/Pages/InternationalStandards.aspx.

realization of the right to adequate housing, ranging from forced evictions, homelessness and financialization of housing to the impact of COVID-19 on the right to housing.¹²

19. Many of the reports were prepared on the basis of engagement and consultation with States, civil society organizations and other stakeholders and they contain useful recommendations. The reports have contributed to raising awareness and bringing obstacles and evolving challenges to the realization of the right to housing to the attention of Governments, civil society and other stakeholders. They also highlight good practices, laws and policies implemented by States to protect and fulfil the right to adequate housing, and provide guidance for advocacy, law and policymaking.

20. For example, in collaboration with civil society groups and Members of Parliament, the advocacy of the Special Rapporteur contributed to the adoption of a rights-based national housing strategy in Canada and a new national housing law in Portugal.¹³

21. In 2006, the first mandate holder, Miloon Kothari, noted that since the establishment of the mandate, the right to adequate housing had received increased attention in national laws and policies, by courts and judges and in the work of United Nations bodies, national human rights institutions and civil society.¹⁴ Leilani Farha highlighted in her first report to the General Assembly that her predecessors had shed light on acute human rights situations in which the right to adequate housing was at stake and significantly advanced the understanding of that right by giving audience to groups previously unheard from and engaging with those living in diverse circumstances.¹⁵

22. The Special Rapporteur is cognizant of the fact that the impact of those reports depends on several factors: (a) prior engagement with States, local governments, national human rights institutions, United Nations entities and international organizations and civil society organizations on the topic in the development and drafting of the reports; (b) activities and public outreach accompanying their publication and presentation to the Human Rights Council and General Assembly of the United Nations; (c) the actual implementation of key recommendations contained in the reports by States and public authorities; and (d) the follow-up by national, regional and international human rights institutions and mechanisms, United Nations entities, parliamentarians, civil society organizations and the Special Rapporteur.

23. In recent years, significant efforts have been made to raise awareness of the key recommendations contained in the thematic reports through side events and public information materials, including documentaries. Social media and virtual, hybrid or in-person events during the post-pandemic era provide new opportunities for human rights awareness-raising, advocacy, human rights training and education. The Special Rapporteur will continue to explore new avenues for outreach and human rights education on the right to adequate housing with the limited resources available to him.

C. Country visits

24. Some 34 country visits have been conducted since the mandate was established. They have provided an opportunity to engage in direct dialogue with States and other stakeholders to assess the status of implementation of the right to adequate housing in situ. Of the country visits undertaken, 28 per cent were in Asia and the Pacific, 27 per cent in Western Europe, 21 per cent in Africa, 15 per cent in Latin America and the Caribbean and 9 per cent in Eastern Europe.¹⁶

25. The visits have empowered the local communities the Special Rapporteurs have visited, amplified their voices, shed light on the situation on the ground, raised visibility of challenges and increased awareness about applicable human rights norms. They have also opened channels of communication with the relevant Government, at the local or national

¹² All thematic reports are available at www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx.

¹³ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24728&LangID=E and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25083&LangID=E.

¹⁴ E/CN.4/2006/41, para. 5.

¹⁵ A/69/274, para. 7.

¹⁶ For all country visits conducted, see www.ohchr.org/EN/Issues/Housing/Pages/CountryVisits.aspx.

level. In addition, country visit reports have also served the important function of bringing international human rights standards into the national and local contexts, by relating them to the national legal frameworks and the local contexts.

26. Country visits offer the opportunity to engage in direct dialogue with government officials, national housing experts and civil society organizations and to identify particular challenges and good practices for the realization of the right to adequate housing. They also provide a chance to assess housing and human rights laws, regulations, programmes and policies in a manner impossible through the largely remote or report-based human rights monitoring undertaken by the treaty bodies.

27. While many countries have cooperated closely with the Special Rapporteur in the preparation, implementation and follow-up to country visits, access to some countries has been an issue, with visit requests not receiving a response or only after a long delay. The current Special Rapporteur's predecessors were, for example, unable to access Angola, China, Jamaica, Mozambique and Zimbabwe, despite sending several visit requests and reminders during their respective tenures.¹⁷ The Special Rapporteur expresses his hope for continued and increased cooperation by States in responding to his visit requests.

28. Several States visited by the Special Rapporteur have used such visits as an opportunity to advance their own legal and policy reforms aimed at promoting and protecting the right to adequate housing, including Mexico (visit in 2002), Kenya (visit in 2004), Chile (visit in 2017) and most recently, New Zealand (visit in 2020).

29. In 2019, Portugal adopted the Basic Housing Law, implementing a key recommendation made by the Special Rapporteur after her country visit in December 2016.¹⁸ The law guarantees housing as a human right and specifies that housing policies must follow the principles of universality and citizen participation.¹⁹

30. During the current Special Rapporteur's consultations in preparation for the present report, the country visits to Spain, in 2006,²⁰ and to the United States of America, in 2009,²¹ were mentioned as particularly positive examples in increasing awareness of the right to adequate housing and fostering momentum for reform, especially by promoting acceptance of housing as a right.

31. The recommendations made in country visit reports have informed the review of the right to adequate housing by the Committee on Economic, Social and Cultural Rights and recommendations relating to housing rights made to States during the universal periodic review of the Human Rights Council.

32. The Special Rapporteur has also reviewed the status of implementation of the recommendations made in country visit reports through follow-up reports.²² Recently, the Special Rapporteur on the human rights to safe drinking water and sanitation embarked on an ambitious project to follow-up on six previous country visits.²³ However, with the limited capacity and staff support available to Special Rapporteurs, such useful follow-up to country visits is regrettably possible only in exceptional circumstances.

33. The Human Rights Council may therefore wish to consider strengthening the capacity of all special procedure mechanisms to carry out such important follow-up research and activities and ensuring the provision of the required funds under the regular budget of the United Nations. As already emphasized in 2006 by the first Special Rapporteur on housing, Miloon Kothari, there is a need to create a mechanism for close and systematic follow-up to

¹⁷ See the country visit database at <https://spinternet.ohchr.org/Search.aspx?Lang=en>.

¹⁸ [A/HRC/34/51/Add.2](#).

¹⁹ For more information, see

www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25083&LangID=E.

²⁰ [A/HRC/7/16/Add.2](#).

²¹ [A/HRC/13/20/Add.4](#).

²² [A/HRC/10/7/Add.2](#) and [A/HRC/13/20/Add.2](#).

²³ See [A/HRC/42/47/Add.4](#); [A/HRC/42/47/Add.5](#); [A/HRC/42/47/Add.6](#); [A/HRC/45/10/Add.1](#); [A/HRC/45/10/Add.2](#); and [A/HRC/45/10/Add.3/Rev.1](#).

country visits and the implementation of the resulting recommendations.²⁴ That need has not yet been met.

34. The Special Rapporteur hopes to resume country visits as soon as possible, once COVID-19 related travel restrictions have been lifted. He is of the view that direct and personal engagement with public officials, civil society and local experts is essential for building trust and advancing the right to adequate housing. Virtual meetings can never replace the essential value of personal interaction during country visits and of seeing and properly understanding the realities and challenges public authorities and rights holders face.

D. Communications

35. Since 1 December 2010, the Special Rapporteurs on adequate housing have sent more than 385 communications to States and other actors, alone or in collaboration with other human rights experts. The communications addressed a wide range of violations of the right to adequate housing and provided comments on draft legislation and policies relating to the right to adequate housing. Of all the communications, 43 concerned countries in the African Group, 90 in the Asia-Pacific Group, 40 in the Eastern European Group, 48 in the Latin American and Caribbean Group and 112 in Group of Western European and other States. In addition, 52 communications were sent to private companies and other actors, including international institutions.²⁵

36. Since taking over the mandate, the current Special Rapporteur has sent 113 communications. The increase in communications during the past year highlights several trends: a sharp increase in alleged housing rights violations during the COVID-19 pandemic, especially given the centrality of a secure home as a shelter against the spread of the virus; the additional efforts of the Special Rapporteur to address housing rights concerns through the communications procedure; and a more proactive approach to addressing housing rights issues relating to business enterprises or internationally financed development projects.

37. The type of violations addressed in the communications included forced evictions, home demolitions, homelessness, cuts to housing assistance programmes, development-based displacements, privatization of public housing or water services, the housing rights of indigenous peoples, refugees, migrants, women, Roma, religious minorities and other groups, and environmental and health hazards affecting the adequacy of housing.

38. Communications have also been used to follow-up on topics addressed in the thematic reports. For example, in follow-up to the thematic report on homelessness,²⁶ the Special Rapporteur launched an initiative to address the global homelessness crisis, through communications asking States to share their most recent official data on homelessness and their policies to tackle homelessness.

39. Of the 385 communications sent by the successive Special Rapporteurs on housing, 226 received replies, yielding a response rate of about 59 per cent. The quality of replies varies greatly, from mere letters acknowledging receipt of the communication to detailed substantive replies. One of the few studies carried out to date on the effectiveness of the communications procedure of all the special procedure mechanisms has indicated that only 8 per cent of all replies received indicated steps taken to address a violation. Some 42 per cent of all replies were substantive, but incomplete, 26 per cent merely rejected the allegation of a violation and 24 per cent provided information that was not directly relevant to the alleged violation, for example information on general policies or laws, without relating them to the particular concern raised.²⁷ Those findings roughly mirror the observations of the current Special Rapporteur.

²⁴ E/CN.4/2006/41, para. 14.

²⁵ Communications sent since 1 December 2010 are accessible at <https://spcommreports.ohchr.org/TmSearch/Mandates?m=29>.

²⁶ A/HRC/31/54.

²⁷ Marc Limon, *Reform of the UN human rights petitions system: an assessment of the UN human rights communications procedures and a proposal for a single integrated system* (Versoix, Switzerland, Universal Rights Group, 2017), p. 36.

40. While such findings may appear disappointing, they are based on an analysis of the written replies only. It is to be expected that, in official replies, States and other entities are strongly inclined to refrain from acknowledging possible human rights violations. However, States, business enterprises and other actors may still take communications seriously and work behind the scenes to address them. An analysis of the extent to which communications from the Special Rapporteur on housing may have actually resulted in a positive change by ending or preventing housing rights violations in practice would require a separate research project of its own, but could provide additional insights.

41. In the view of most civil society organizations, the ability of the Special Rapporteur to raise concerns directly with States and other actors remains one of the mandate's most effective features. The communications procedure of special procedures is one of the most accessible and fast international human rights complaint mechanisms. However, time and staffing capacities available to special procedure mechanisms allow them usually to work on only a fraction of communications received. Only an estimated 10 per cent of all complaints received from civil society organizations, United Nations entities and other actors that appear legitimate can be acted upon owing to lack of capacity and time to undertake the necessary research, corroboration or drafting of such communications. The Special Rapporteur is of the view that there is a continued need to enhance the capacity of the mandate to respond to requests for communications and for training, in particular for community-based organizations, on how to submit information for consideration.

E. Public statements

42. While direct engagement with States is extremely important and has in some instances been highly successful, human rights protection can regrettably not be achieved solely by relying exclusively on diplomatic dialogues with Governments behind closed doors. One of the fundamental elements of human rights work is public human rights education and advocacy, including through engagement with the media on housing rights issues.

43. Since the establishment of the mandate, the successive Special Rapporteurs on housing have issued 312 press releases and public statements alone or in conjunction with other United Nations human rights experts, including press releases on annual reports, visit announcements and end of visit statements. Public statements are an important tool for welcoming positive developments in Member States or at the international level. They are an essential part of highlighting good practices, making an important contribution to the prevention of housing rights violations and a key contribution to enhancing the early warning capabilities of the United Nations in the field of human rights in line with "The highest aspiration: a call to action for human rights" of the Secretary-General.

44. In May 2021, a communication and public statement by the Special Rapporteur and other special procedure mandate holders contributed to halting an imminent eviction that threatened to render homeless up to 2,000 persons in the Bahamas.²⁸ The Special Rapporteur welcomes the ruling of the Supreme Court of the Bahamas, which granted a temporary suspension of the planned housing demolitions.²⁹ He hopes that a participatory, rights-based programme to regularize and upgrade existing informal settlements will now be designed and implemented by the Government to provide households living in informal settlements with access to essential public services, enhance resilience against future natural disasters, improve housing conditions and ensure that no one is left behind.

45. Regrettably, there has recently been a growing tendency, including among a number of States, to unduly narrow the independence of United Nations human rights experts and their ability to speak out effectively and in a timely manner, when it is appropriate. Human rights require respect worldwide 24 hours a day. It is important that all special procedure mechanisms can raise serious concerns using all practicable means, in particular if human rights violations of a grave nature can still be prevented, for example by calling upon a

²⁸ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27066&LangID=E.

²⁹ Leandra Rolle, "Cease and desist: judge delivers damning ruling on Govt's shanty town demolition actions", *The Tribune*, 8 June 2021.

Government to suspend a planned demolition of a settlement that would result in a mass eviction.

F. Making use of new opportunities

46. The Special Rapporteur has not only been engaged in written dialogues with States. In his view, the digitalization accelerated by the COVID-19 pandemic offers new opportunities for bilateral dialogue with diplomats and government representatives dealing with housing rights matters. Virtual meetings offer prospects for thorough, constructive and more regular dialogue without the need for travel.

47. Owing to the large volume of concerns brought almost daily to the Special Rapporteur's attention, it is impossible to set up virtual meetings to discuss all concerns received. However, such meetings are an additional and effective method of raising concerns and conducting dialogues, beyond communications and press statements. Such meetings may particularly be called for when concerns are brought to the attention of the Special Rapporteur indicating a grave breach or a pattern of housing rights violations. They may also be helpful in order to intervene in a constructive manner at an early stage, before housing rights violations actually take place.

48. Through virtual meetings, the Special Rapporteur can also offer his good offices by encouraging direct dialogue between civil society representatives, United Nations country teams, national human rights institutions and other stakeholders and national and local government representatives to address housing rights concerns. A positive example of such good offices is the discussions the Special Rapporteur held recently, facilitated by the Mexican foreign ministry, with representatives from federal and local housing agencies and representatives of the judiciary and the legislative branch in Mexico on various measures taken by the Government to prevent evictions during the pandemic.

49. The Special Rapporteur is grateful to all States that have responded positively to such meeting requests to date. Virtual meetings with representatives from housing ministries, parliamentarians, judges and lawyers, civil society representatives and other stakeholders are, in his view, an additional tool that offers enhanced opportunities for constructive engagement, besides country visits and communications.

50. In order to ensure that such meetings are effective, it is important that the Special Rapporteur can directly engage with government officials responsible for housing policies at the national or local levels, in addition to permanent representatives of States covering human rights issues in Geneva or New York. Consideration must also be given to ensuring better technical support, including platforms that allow for multilingual videoconferencing with interpretation, for the Office of the United Nations High Commissioner for Human Rights to carry out such meetings when supporting special procedure mechanisms. Funds for holding a limited number of virtual meetings with States and other stakeholders, with interpretation, would be a reasonable and effective investment and should be included in the regular budget of the United Nations.

51. The same can be said for thematic consultations with States, United Nations entities, national human rights institutions, local governments, civil society and experts, which could now take advantage of in-person, hybrid and virtual meetings, which allow for broader participation of experts at a lower cost, during the current period of extended global uncertainties about travel restrictions.

52. Since assuming office, the Special Rapporteur has tried to make the best possible use of such opportunities and has held many well-attended virtual consultations and meetings with relevant stakeholders to inform his thematic reports or to discuss particular housing rights issues. For example, for his forthcoming thematic reports on housing discrimination and spatial segregation, the Special Rapporteur held four virtual consultations with States and United Nations entities, civil society organizations, lawyers, judges, anti-discrimination offices, national human rights institutions and a dedicated consultation with local governments. Each of those meetings had between 60 and 150 participants from different regions of the world. The quality of exchanges during those consultations was noteworthy.

For example, during the consultation with States and United Nations entities, delegates engaged seriously on the topic and some States nominated, in addition, experts within Ministries responsible for housing or urban planning or representatives of national non-discrimination bodies to take part in the consultation. All the consultations have been documented in summary reports.³⁰

53. The enhanced outreach through virtual meetings has resulted in an unprecedented number of replies to questionnaires published by the Special Rapporteur. The current call for submissions on housing discrimination and spatial segregation has already elicited more than 120 written responses and submissions. That welcome development does of course pose capacity challenges to the Special Rapporteur and his small but dedicated support team to make best use of the valuable information received. It underlines the need to ensure sufficient financial and human resource support for United Nations human rights experts, who usually have a primary professional job besides their function for the United Nations human rights system which is not remunerated and is supposed to be part-time only.

54. Notwithstanding the digitalization push during the COVID-19 pandemic, it is important not to lose sight of those individuals who are excluded from participating in virtual meetings. Many residents of informal settlements do not have access to a stable electricity supply, an Internet connection or a computer. Older persons and those who lack formal schooling often lack the technical knowledge to fully participate in the new virtual world. Persons living in street situations and in internal displacement camps often have little or insufficient access to digital communication or the required equipment and facilities. Furthermore, the risk of surveillance, persecution and reprisals against victims, witnesses, human rights defenders and other persons collaborating with officials of the United Nations has regrettably increased.

55. Access to public services is a core component of the right to adequate housing. In the digital age, that means also having access to an Internet connection as a public service, and being protected against arbitrary interference in one's privacy and the home, as required by international human rights law. As broadband access is increasingly needed and relied upon for accessing work, education and administrative services and for participating in social and cultural life, the COVID-19 pandemic has put a spotlight on a new fault line of inequality, resulting in discriminatory outcomes both at the global level, but also within nations.

III. Challenges for the realization of the right to adequate housing

A. Clarifying definitions: evictions, displacement, access to land and standard of living

56. The right to housing, in its narrow meaning, could mean the right to shelter, narrowly understood as physical security in the form of a roof over one's head. However, that is not how the right to housing has been understood in international law and emerging comparative law, housing policy and practice. Instead, the right to housing has been understood to mean a broader entitlement to security and dignity of living and belonging, one that emphasizes many elements, from affordability and accessibility to cultural adequacy.

57. Despite the broader understanding of the right to housing, two elements need further clarification. First, the distinction between eviction and displacement needs to be developed analytically and second, the meaning of access to land as a critical and foundational element of the right to adequate housing should be clarified. The lack of adequate clarity on both of those issues has hindered the proper development and application of the right to adequate housing. In addition, there is a dire need to clarify the meaning and purpose of the right to an adequate standard of living, which is the umbrella right from which the right to housing is derived, especially in the context of climate change.

³⁰ The meeting reports and submissions are available at www.ohchr.org/EN/Issues/Housing/Pages/CFI_Segregation.aspx.

58. While displacement refers to a broader phenomenon involving loss of land, security, habitat, livelihood and even identity, eviction is normally a narrower category of removals from shelter or physical security, and one that typically follows a legal or judicial process. The focus of the right to housing in the United Nations has thus been far more on forced evictions in the urban context than on displacement. While there are other mechanisms in the United Nations that focus on displacement, especially the wider human rights challenges that internal displacement raises, more focus should be placed on ensuring that the right to housing contributes to the prevention of displacement, as well as its consequences. One major reason why that is necessary is that factors like climate change and conflict have become primary reasons that drive displacement,³¹ much more so than was the case when the mandate of the Special Rapporteur on housing was created in the year 2000. Another reason is that a narrower focus on eviction alone tends to spatially restrict itself to urban areas, while a displacement focus allows a broader approach to peri-urban, rural and urban areas equally, including the so-called peripheral regions that urban geographers refer to as “desakota” regions.³² Such regions increasingly constitute the majority of most rapidly urbanizing countries. Thus, there is a need to deurbanize the meaning of housing and to broaden the focus of rights protection from eviction to encompass other forms of displacement.

59. Access to land is critical for the realization of the right to adequate housing. Nevertheless, access to land is often the most difficult bottleneck for most countries that face tremendous housing inadequacies, including with regard to informal settlements. While public ownership of land has remained important in some countries, land has become a commodity and is often concentrated in the hands of a narrow landed elite or monopolized by a statist oligarchy which denies the majority of its population access to land. It is important to recognize that at a definitional level, there is a need to clarify the status of access to land and distinguish it from a narrower right to private property. Land remains critical for building housing and for making it meaningful to live in, but it remains captured by the two extremes: a private commodity or a State monopoly. There is a dire need to move beyond those categories and reimagine access to land by decommodifying it.³³ Indeed, the need to integrate the right to land into the broader context of economic, social and cultural rights is recognized by the decision of the Committee on Economic, Social and Cultural Rights to draft a general comment on land. The Special Rapporteur hopes to contribute to that and to highlight the close interdependence of that right with the right to adequate housing.³⁴

60. The most critical challenge facing the right to adequate housing, and indeed all economic, social and cultural rights, is how they can be realized in a manner that does not worsen, but mitigates, the climate crisis. If realization of rights leads to greater consumption, to a valorization of the “culture-ideology of consumerism”,³⁵ to increasing material and resource use, the result will be to undermine the future itself in the name of protecting rights. Housing has a particularly central role in that dynamic because of its centrality to economic growth and development and because of its high material use. It is essential to imagine housing in ways which do not depend on increasing material consumption and increased appropriation of space and nature. Indeed, the right to adequate housing is part of an adequate standard of living, as the title of the mandate reflects, but adequacy of standard of living must be understood as not only a minimum floor to which all should be entitled (as it has been to date), but also as a ceiling. That means that standard of living – and housing as a component of it – can be understood to be within ethical, biological and planetary limits. Technological innovation, democratic control and a reorientation of values are essential to bring about

³¹ See www.internal-displacement.org/database. The proportion of displacement due to conflict, disasters and natural hazards has been increasing over recent decades.

³² See T.G. McGee, “The emergence of desakota regions in Asia: expanding a hypothesis”, in *The Extended Metropolis: Settlement Transition in Asia*, Norton Ginsburg, Bruce Koppel and T.G. McGee, eds. (Honolulu, University of Hawaii Press, 1991).

³³ For recent scholarship calling for decommodification of property in land, see Olivier De Schutter and Balakrishnan Rajagopal, eds., *Property Rights from Below: Commodification of Land and the Counter-Movement* (London and New York, Routledge, 2019).

³⁴ See www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-draft-GC-land.aspx.

³⁵ See Leslie Sklair, “Culture-ideology of consumerism” in *The Wiley-Blackwell Encyclopedia of Globalization*, George Ritzer, ed. (Hoboken, United States of America, Wiley-Blackwell, 2012).

alternative futures where a more sustainable standard of living – including housing – within limits is possible.

B. Impact of the coronavirus disease (COVID-19) pandemic on the right to adequate housing

61. The current Special Rapporteur took over the mandate as the COVID-19 crisis overwhelmed much of the world. His work, including his working methods, were fundamentally affected by the crisis. His first thematic report was on COVID-19 and the right to adequate housing and called attention to the disproportionately negative impact of the pandemic on marginalized communities, including racial, ethnic and other minorities, women and children; the fragility of temporary measures to secure the right to housing, including eviction moratoriums; and the continuing evidence of a high number of forced evictions during the pandemic.³⁶ In the report, he made a number of concrete recommendations from the need for disaggregated data to economic measures for renters and special measures for impoverished countries. The Special Rapporteur notes with regret that to date, very few of his recommendations have been implemented by the majority of States.

62. After more than a year of living with the COVID-19 pandemic, the global crisis is far from over, and will result in profound challenges for the realization of all economic, social and cultural rights, including the right to housing, in the years to come. The disparate and exceedingly uneven availability of vaccines for countries with few resources and little power has resulted in not only greater mortality and infection rates; it has contributed to a crumbling of health infrastructure in several countries – a “vaccine apartheid”, as the Director-General of the World Health Organization called it.³⁷ The pandemic has also resulted in lockdowns, curfews and confinement, and increased economic and social losses. Home has never been more central to health, as people have been forced to quarantine, and the lack of a decent home, including the lack of security for many women, the lack of clean water and the lack of security of tenure against evictions, has been the most important element in the fight against COVID-19. The path ahead appears extremely fragile, and the financial, political and social resources necessary to fully recover from and rebuild in the wake of the global crisis have yet to be marshalled, unless there is a rededication to a human rights-oriented response to the pandemic based on the Sustainable Development Goals, in which housing is at the heart of the recovery.³⁸

C. Discrimination and spatial segregation

63. Discrimination in relation to housing is an important challenge which has lost none of its urgency since the mandate was established in the year 2000. States underlined that concern when creating the mandate, as its official title includes explicit reference to the notion that the mandate holder should focus not only on the right to adequate housing, but also on “non-discrimination in this context”. It is one of the few special procedure mandates that has such an explicit reference in its title. Despite such centrality, neither discrimination nor spatial segregation have received adequate and full attention, either from States or, in the view of the Special Rapporteur, from the Special Rapporteurs themselves.

64. The Special Rapporteur has therefore decided to focus his next two reports, to the General Assembly and the Human Rights Council, on discrimination and spatial segregation as they impact the right to adequate housing. The work conducted by his predecessors provides an important foundation for that endeavour, including the early work of Rajindar Sachar in the 1990s, extending to the guidelines for the implementation of the right to adequate housing issued by his predecessor, Leilani Farha. Discrimination in relation to the right to adequate housing has also been a topic that has been highlighted in many country

³⁶ A/75/148.

³⁷ See www.reuters.com/business/healthcare-pharmaceuticals/world-has-entered-stage-vaccine-apartheid-who-head-2021-05-17/.

³⁸ Maimunah Mohd Sharif and Balakrishnan Rajagopal, “Opinion: Housing must be at the heart of the COVID-19 response and recovery”, Devex, 30 October 2020.

visit reports and in reports that focused on discrimination in the field of housing against particular groups, such as women, persons with disabilities and indigenous peoples.

65. Discrimination is at the heart of the denial of the right to adequate housing, as racial and ethnic minorities, indigenous people, women, older persons, lesbian, gay, bisexual, transgender, queer and intersex communities and migrant workers face tremendous barriers in accessing housing. Spatial segregation often exists in parallel with highly unequal, discriminatory access to a range of human rights, including, for example, the rights to water, sanitation, work, education, health care, physical integrity and movement. Disparities in security, policing and in access to all public services are not uncommon in many cities and human settlements. Too often the degree of protection and of access to rights enjoyed by marginalized individuals and groups depends on where they live.

66. The issue of spatial segregation has not, in the Special Rapporteur's view, received sufficient attention. It is not only an important issue in countries with a legacy of racial discrimination, such as the United States, and apartheid, such as South Africa. As urbanization has rapidly progressed around the world, patterns of spatial segregation have emerged in many locations, while evidence of new forms of apartheid have become obvious in Israel and the Occupied Palestinian Territory. Current policies, laws and regulations that produce and entrench such segregation, whether intended or unintended, need to be studied, understood and addressed.

67. Discrimination and segregation are entrenching divisions between communities and making it more difficult to make meaningful progress towards the achievement of the right to adequate housing and other human rights. The rise of global movements for racial justice during the last decade clearly illustrate the need to tackle the vast disparities between poor communities and the very wealthy, and between racial, ethnic and religious groups. States have an important role to play in curbing housing discrimination and addressing spatial segregation through policies and legislation. Intentional discrimination and segregation are serious violations of human rights and often of humanitarian law. Furthermore, States have clear legal obligations to address discrimination and segregation, even if the States themselves do not intend to discriminate, but discrimination or segregation result from acts or omissions by others under their influence or control. States also have an important role to play in ensuring access to justice and effective remedies against discrimination and spatial segregation, and in ensuring that their policies and laws do not result in or lead to segregation and discrimination, including in the area of zoning, spatial planning and project implementation.

D. Climate change and rights-compliant resilient housing

68. Perhaps the most important challenge at a global level for the right to housing is climate change. The rise in sea level, the degradation and non-usability of land, the weakening of food and water security and increased migration within and across frontiers are all major challenges which will raise immediate and long-lasting questions about how and where to house the many millions of people affected. A related and central issue is also climate change induced displacement of entire communities, which can occur either involuntarily through forced resettlement or through voluntary relocation. In either case, the availability of land and housing, along with the services that are necessary for human survival, such as water and energy, are critical. While the Special Rapporteur's predecessor, Raquel Rolnik, issued a report on climate change and the right to adequate housing many years ago, in 2009,³⁹ much more is now known about the climate crisis and its impacts, as well as the urgency of dealing with them in the light of more recent evolving norms of international law. A lot more is also known about secondary displacement, for instance, which disproportionately affects those who have already been displaced previously due to disasters.

69. Housing rights advocates have often tried to advocate for minimal floor sizes to avoid overcrowding and ensure decent living conditions. They have done so rightly, but it is time

³⁹ A/64/255.

to think about wasteful and unsustainable housing undermining the enjoyment of decent housing for others and contributing to the current climate crisis. The question of what a decent standard of living is in the context of the climate crisis and what that in turn means for the right to adequate housing to be realized will be a central focus of the Special Rapporteur's work. Many natural disasters to which the humanitarian community responds have also in their frequency and force been linked to the ongoing crisis of climate change; in fact the majority of persons who are currently being displaced are in that situation not due to conflict (narrowly defined), but due to disasters, as data shows.⁴⁰

70. It is obvious that housing must be resilient to cope with the challenges of climate change. Any resilient housing must be human rights-compliant to ensure that communities fully participate in relocation and resettlement plans, any adverse consequences that flow from the building of housing itself are mitigated without discrimination, and the benefits and burdens that flow from climate change are equally shared. How to build and sustain communities in a manner that creates jobs and ensures economic, environmental and social well-being, while avoiding political polarization, is a major concern for all States. From questions of economic geography and urban design to the use of increasingly sustainable materials for the construction of buildings, housing will be central to how the world adapts to the challenges of climate change.

E. Conflict, displacement and the humanitarian response to housing

71. A major focus of the Special Rapporteur's work will revolve around the right to housing and its nexus to humanitarian law and humanitarian response. There are multiple overlaps and intersections between humanitarian, human rights and development fields, especially in the context of conflict-induced displacement and humanitarian responses to violent conflict. There are also emerging directions of international law, including international criminal law, which indicate that systematic or widespread violations of economic, social and cultural rights such as the right to housing, forced displacement and housing destruction may lead to State responsibility and individual criminal accountability. Key areas of focus should therefore be those areas and the challenges that result from the increasingly urban character of internal displacement, which poses challenges to the relationship between displaced communities and host communities and to the provision of infrastructure and services. It is essential to focus on housing practices and tools which support durable solutions for urban internally displaced persons. As many have done since the World Humanitarian Summit,⁴¹ it is also essential to promote approaches that stress that, given the increasingly urban settlement and dispersal of internally displaced persons, a search for durable solutions to the problem of shelter and housing must reframe resilience, emphasize a continuum of security of tenure and area-based practices which bring together humanitarian and development actors with local governments. Such approaches must be informed by the right to adequate housing, be inclusive and emphasize the broader needs of the wider host communities in which displaced persons live.

72. There are some welcome indicators, such as the fact that major development agencies are now willing to look at issues of displacement as part of a broader economic rebuilding and recovery agenda, which pays attention to internally displaced persons and the wider host communities.⁴² Nevertheless, they remain the exception and are frequently contradicted by the neoliberal policies of the very same institutions. An additional key challenge in that regard is not only ensuring in humanitarian responses non-discrimination and minimum standards in relation to the right to adequate housing and other human rights, but also guaranteeing that people housed in emergency housing are not caught up in it for many years. Reparative strategies must proactively address the right to housing in situations of post-conflict rebuilding. In addition to prevention of displacement, there is a need to find better

⁴⁰ See www.internal-displacement.org/database.

⁴¹ See

https://static1.squarespace.com/static/56340b91e4b017e2546998c0/t/582a852b9de4bb86345bb0c3/1479181612469/WHSummit_DranStatement_Final.pdf.

⁴² See, e.g., World Bank, *Forcibly Displaced: Toward a Development Approach Supporting Refugees, the Internally Displaced, and Their Hosts* (Washington, D.C., 2017).

rights-based solutions for displaced persons to access decent long-term housing solutions that are affordable.

F. Resettlement and relocation: the need for guidelines

73. Evictions have been a major cause of violations of the right to adequate housing. How to prevent evictions and displacement, safeguarding the right to remain in place and the right to be consulted before eviction, are well-established as a matter of policy and law, even if they are ignored in practice too often. Yet, most negative consequences of evictions follow the act of eviction, in the form of lack of resettlement and rehabilitation. Much of the resettlement and rehabilitation policy work by leading development agencies, such as the World Bank, focuses on the standards and policies to be followed after evictions to ensure that the people who are evicted do not slip into poverty and do not become worse off than before. In the context of climate change, resettlement assumes a major role, as many communities affected by rising sea levels or uninhabitable land seek to be relocated. Those relocations are also based on national or local policies and laws which seek to ensure parity in living and treatment between the pre- and post-relocation scenarios.

74. Although there exist substantial jurisprudence, national laws and policies on resettlement and relocation, there has never been a set of clear guidelines on them at the global level, within the human rights framework. The absence of such international guidelines leads to wildly varying approaches to eligibility criteria for project-affected people, compensation for loss of land and housing rights, due process requirements in evictions, consultation, participation and consent requirements for relocation and site selection, and benefit-sharing arrangements, among others. The result is that the resettlement, relocation and upgrading records of too many countries are in serious breach of human rights law and defeat the development objectives, including the Sustainable Development Goals, which States have set for themselves. Despite the use of resettlement and rehabilitation standards by some agencies such as the World Bank, most projects which involve bilateral or multilateral funders do not appear to have an admirable record when it comes to the compliance of their resettlement and relocation policies with international human rights standards. There is an urgent need to develop a set of guidelines which can guide resettlement and relocation to ensure that it is consistent not only with the Sustainable Development Goals, but also with international human rights law.

G. Rethinking land governance, eminent domain and solidarity economy

75. Land use in much of the world used to be based on plural, mutual understandings between neighbouring groups and those who lived together, until the consolidation of colonial and post-colonial regimes eliminated plural land use arrangements, plural land tenures and co-living arrangements in favour of mutually exclusive tenure systems. In much of sub-Saharan Africa, for example, State centred regimes consolidated their control over land and eliminated plural tenure arrangements, starting in the mid-1970s.⁴³ The key legal and planning tool deployed by States for that purpose is eminent domain, also known as “taking”, compulsory acquisition or simply the exercise of regulatory authority to abridge or abolish private property. While the exercise of public power to regulate private property is critical to ensure its distribution and prevent its abuse, the erasure of plural tenurial arrangements by Statist regimes has also gone too far in the opposite direction. Similarly, land-grabbing by agribusiness and other businesses has undermined security of tenure of land and contributes to displacement and forced evictions.

76. Most large-scale evictions of communities, especially of rural and indigenous communities and of persons living in informal settlements, occur due to the exercise of eminent domain in one form or another. The pushback against evictions by social movements has led to the creation of new norms of international law at the global level which seek to

⁴³ Liz Alden Wily, “Looking back to see forward: the legal niceties of land theft in land rushes”, *The Journal of Peasant Studies*, vol. 39, Nos. 3–4 (2012).

vest indigenous communities and peasants with collective rights and recover collective control over the land resources that sustain them.⁴⁴

77. The struggle against forced evictions, which are a major source of violations of the right to adequate housing, will not make real headway unless there is a will to rethink land governance. That involves a critical re-evaluation of eminent domain as legal doctrine and practice, expansion of the collective rights of communities in urban and rural areas who have been marginalized, and through such empowerment, laying the basis for a new solidarity economy which values people and planet over profits. The basis for such collective movements already exists in the form of urban cooperatives, community land trusts and co-governance arrangements for managing land and resources.⁴⁵ They involve social production of housing and communal forms of tenure. What is needed is a way to anchor those experiments more soundly in evolving norms of international law, especially the strong foundation offered by economic, social and cultural rights, including the right to adequate housing.

H. Affordable and accessible housing and the role of public and private actors

78. The work of the Special Rapporteur's predecessors Raquel Rolnik and Leilani Farha laid the foundation for a critical evaluation of the financialization of housing and the role played by large global private firms such as the Blackstone Group in causing evictions and an affordability crisis in cities.⁴⁶ The Guiding Principles on Business and Human Rights and evolving norms on private, corporate conduct under international law have begun laying the foundation for accountability of public and private actors for harm caused by private acts. Building on that important work, the current Special Rapporteur believes that the time is ripe for a re-evaluation of the role of public and private actors to make sure that housing remains affordable and accessible.

79. In most wealthy and middle-income countries, there is a crisis of affordability in housing and renters in many cities find it difficult to afford housing. The initiatives to combat the unaffordability crisis has led, in recent years, to measures at the local level which seek to impose constraints on market-based determination of rents, as for example the temporary rent increase freeze in Berlin.⁴⁷ At the same time in many countries, the stock of social and public housing for low-income households has decreased or been sold to private actors, turning the debt crises of local and regional governments into housing crises. Even counties with a large social housing stock, such as France, lack social housing for those in most need.

80. The circle of private actors – the developers, financiers, bankers and credit institutions, and the myriad set of intermediate market institutions that manage real estate transactions – must all be re-evaluated for their human rights compliance, in the light of emerging norms of international law. Similarly, the performance of public housing providers, including specialized housing agencies, which assume the form of parastatal or semi-public/private forms in many countries, also need to be closely assessed to determine whether they fulfil their obligations under international human rights law to ensure affordable and accessible housing.

⁴⁴ Examples include the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

⁴⁵ Sheila R. Foster, "Urban commons, property, and the right to the city", in *Property Rights from Below*, Olivier De Schutter and Balakrishnan Rajagopal, eds.

⁴⁶ See [A/HRC/10/7](#); [A/67/286](#); [A/HRC/34/51](#); and Raquel Rolnik, *Urban Warfare: Housing under the Empire of Finance* (London and New York, Verso, 2019).

⁴⁷ David Madden and Alexander Vasudevan, "Berlin's rent cap, though defeated in court, shows how to cool overheated markets", *The Guardian*, 23 April 2021.

IV. Way forward and conclusions

81. In the present report, the Special Rapporteur underlines the need to elaborate further on some key terms relating to the right to housing, such as the meaning of an adequate standard of living. He lists seven priorities that will guide his work: (a) the impact of the COVID-19 pandemic on the right to adequate housing; (b) discrimination and spatial segregation; (c) climate change and rights-compliant resilient housing; (d) conflict, displacement and the humanitarian response to housing; (e) the development of guidelines on resettlement and relocation; (f) land governance, eminent domain and the solidarity economy; and (g) the role of public and private actors in ensuring affordable and accessible housing.

82. He takes stock of the accomplishments of the successive Special Rapporteurs since the establishment of the mandate, notably the development of guiding principles and guidelines on development-based evictions, security of tenure and for the implementation of the right to adequate housing, as well as their contribution to the protection and realization of human rights through thematic reports, country visits, communications, public advocacy and human rights diplomacy. The Special Rapporteur emphasizes the continued need for implementation and follow-up on recommendations by States, United Nations agencies and other actors, and the ongoing financial and other limitations special procedure mechanisms experience in that respect.

83. Underscoring the importance of personal dialogue and the need to resume country visits as soon as possible, the Special Rapporteur highlights the additional opportunities for human rights diplomacy, constructive dialogue, human rights awareness-raising and advocacy that virtual and hybrid meetings offer. He shares his experience of more inclusive consultation with civil society, government officials at national and local level, human rights bodies and other stakeholders through virtual meetings. Acknowledging the limitations of virtual dialogues and digital exclusion, he shares good practices in using virtual meetings for deeper and more inclusive dialogue.

84. The Special Rapporteur notes that it remains essential that special procedure mechanisms be able to raise situations of grave concern in public to prevent violations of human rights in a timely manner and to fulfil their early warning function.

85. The Special Rapporteur recommends:

(a) Enhancing the capacity available to the Special Rapporteur and other United Nations human rights experts to respond to communications, and providing training and awareness-raising about their thematic work, thus enabling them to engage in more sustained follow-up activities;

(b) That States facilitate the participation of national government experts working at the federal, regional and local levels alongside Geneva-based human rights diplomats in thematic consultations or bilateral meetings making use of new virtual opportunities;

(c) Improving the information technology support for special procedure mechanisms, including the provision of a platform for multilingual, virtual meetings of an informal nature;

(d) Ensuring interpretation services for virtual consultations and meetings with United Nations human rights experts to allow them to make full use of new digital opportunities when engaging with national and local actors in human rights diplomacy, awareness-raising, consultations or responding to requests for technical advice.