

**Human Rights Council****Forty-ninth session**

28 February 2022–1 April 2022

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Spatial segregation and 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, Balakrishnan Rajagopal****Summary*

In the present report, the Special Rapporteur draws attention to spatial segregation as a major obstacle to enjoyment of the right to adequate housing. Spatial segregation is a reflection of multiple, compounded and intersectional forms of discrimination, results in violations of the equal and non-discriminatory enjoyment of the right to adequate housing, and is also linked to the violation of a wide range of other interrelated human rights.

In order to address and reverse the detrimental consequences of spatial segregation, it is important to understand its different forms, to identify it correctly, and to understand the frameworks and mechanisms through which it is manifested. Alongside historic forms of spatial segregation, such as those that existed in apartheid South Africa, the Special Rapporteur points to informal settlements, resettlement sites, gated communities and residential institutions as types of spatial segregation that can have similar damaging and long-lasting consequences. Measuring, spatial mapping and data visualization are identified as important tools for identifying cases of spatial segregation. The present report examines how land use planning and discriminatory zoning, physical barriers, forced evictions and displacement, social and public housing policies, and criminalization and stigmatization of vulnerable minority groups can become drivers of spatial segregation.

Finally, the report discusses how international frameworks, strategic litigation, housing policies, urban and territorial planning, and neighbourhood upgrading programmes can be effective in addressing and reversing the consequences of spatial segregation – and draws out relevant recommendations. The report is the second of two interrelated thematic reports of the Special Rapporteur. His first report on discrimination in the context of housing was presented to the General Assembly in October 2021.

* The present report was submitted after the deadline in order to reflect the most recent developments.



Contents

	<i>Page</i>
I. Introduction	3
II. International normative framework	4
III. Defining and identifying spatial segregation	7
A. Forms of spatial segregation	7
B. Measuring spatial and residential segregation	8
IV. Drivers of segregation	9
A. Land use planning and discriminatory zoning	10
B. Physical barriers	11
C. Forced evictions and displacement	11
D. Social and public housing policies	12
E. Criminalization and stigmatization of minority groups	13
V. The impact of segregation on the enjoyment of other interrelated human rights	14
VI. Addressing spatial segregation	15
A. International frameworks	15
B. Strategic litigation	16
C. Housing policies	16
D. Urban and territorial planning	17
E. Neighbourhood upgrading programmes	18
VII. Conclusions and recommendations	19

I. Introduction

1. The realities of most cities and territories today are marked by drastic inequalities, most visibly manifested in the form of spatial segregation that affects historically marginalized groups. Whether de jure or de facto, spatial segregation is a reflection of multiple, compounded and intersectional forms of discrimination and is an incursion on the equal enjoyment of the right to adequate housing. Spatial segregation is also linked to the violation of a wide range of other interrelated human rights.

2. Spatial segregation can be understood as the imposed or preferred separation of groups of people in a particular territory along the lines of race, caste, ethnicity, language, religion, disability, income or other status. Spatial, including residential, segregation can assume different forms depending on the territorial, cultural or historical context, but these are almost always characterized by economic and social exclusion, and inequality in accessing infrastructure, services and livelihood opportunities. Spatial segregation is thus of major concern to the Special Rapporteur and to the equal enjoyment of human rights without any discrimination.

3. As highlighted in Special Rapporteur's recent report,¹ across the globe racial, ethnic and religious minorities, migrants, refugees and internally displaced persons, women, indigenous peoples, LGBTQI+ persons, persons with disabilities, children, older persons, and persons experiencing homelessness, in informal settlements or in poverty are particularly affected by systemic housing discrimination and spatial segregation.

4. Prior to the creation of the current mandate, the Special Rapporteur on promoting the realization of the right to adequate housing, reporting to the then Commission on Human Rights, Rajindar Sachar, was concerned with spatial segregation. Reflecting on colonially administered lands and contemporary geopolitical contexts, namely South Africa during apartheid and Palestine, he wrote in 1994 that "the housing domain formed the cornerstone of minority-led policies of segregation, discrimination, land confiscation, relocation and marginalization".²

5. Spatial segregation was a major concern³ for the first Special Rapporteur on the right to adequate housing, Miloon Kothari, who warned already in 2002 that "segregation in housing can be based not only on grounds of race, class or gender, but can also result from poverty and economic marginalization".⁴ He pointed to forced evictions,⁵ discrimination in accessing public services⁶ and land and house speculation⁷ as being drivers of segregation, "urban apartheid" and "ghettoization". The subsequent mandate holder, Raquel Rolnik, flagged the increased stigmatization of public housing as locations of extreme poverty, crime and segregation⁸ and drew attention to the fact that migrants experienced segregation in urban areas.⁹ When studying the issue of the financialization of housing, the previous mandate holder, Leilani Farha, indicated that the impact of wealth and private investment had also created and perpetuated spatial segregation and inequality in cities.¹⁰ She also described the "poor door" phenomenon, whereby low-income tenants are compelled to use separate entrances and segregated services.¹¹ These previous mandate holders have also taken on

¹ A/76/408.

² E/CN.4/Sub.2/1994/20, para. 6.

³ See E/CN.4/2001/51, E/CN.4/2002/59, E/CN.4/2003/5, E/CN.4/2004/48, E/CN.4/2005/48 and E/CN.4/2006/41.

⁴ See E/CN.4/2002/59.

⁵ See E/CN.4/2004/48.

⁶ See E/CN.4/2005/48.

⁷ See E/CN.4/2006/41.

⁸ See A/67/286.

⁹ See A/65/261.

¹⁰ See A/HRC/34/51.

¹¹ Ibid.

spatial or residential segregation in their country visit reports.¹² The mandate has issued several communications¹³ to States raising concerns over spatial or residential segregation.

6. The current mandate holder believes that the issue of spatial segregation is so pervasive, with long-lasting and detrimental effects on the enjoyment of human rights, that it merits a separate report dedicated to it. He believes that addressing spatial segregation and its consequences is an important facet in the current debate on racial justice and equality, especially for Afrodescendent communities.¹⁴ As the coronavirus disease (COVID-19) pandemic demonstrated, vulnerable groups that live in distressed communities, particularly those that lack access to essential infrastructure and services, are disproportionately impacted by crisis. Increasingly, research on the impacts of climate change points to the disproportionate vulnerability faced by spatially segregated communities.¹⁵ These realities underscore that addressing spatial segregation is an urgent and critical component to advancing equitable and sustainable development and ensuring community resilience.

7. The report was prepared on the basis of an extensive literature review, and a broad public consultation process with representatives of States, local governments, equality bodies and national human rights institutions and with judges, lawyers, civil society groups and academic experts. This process included four virtual consultations with over 400 participants, and more than 100 written submissions. The present report was developed and should be read in conjunction with the Special Rapporteur's recent thematic report¹⁶ on non-discrimination in the context of the right to adequate housing.

II. International normative framework

8. International human rights law has long affirmed that segregation is a form of discrimination. Upon ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, of 1966, States agreed to condemn racial segregation and apartheid and undertook to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction (art. 3).

9. In its general recommendation No. 19 (1995), the Committee on the Elimination of Racial Discrimination clarified that article 3 of the Convention applied to all countries and that the obligation to eradicate all practices of that nature included the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State. The Committee affirmed that while conditions of racial segregation may in some countries have been created by government policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. The Committee asserted that States should monitor all trends that could give rise to racial segregation and work for the eradication of any negative consequences that might ensue. In its general recommendation No. 27 (2000), the Committee specifically recommended that States should develop and implement policies and projects aimed at avoiding segregation of Roma communities, and should involve them in housing project construction, rehabilitation and maintenance. In its general recommendation No. 30 (2004), the Committee recommended avoiding segregation in the housing of non-citizens and ensuring that housing agencies refrained from engaging in discriminatory practices.

¹² See [A/HRC/22/46/Add.1](#), [A/HRC/31/54/Add.2](#), [A/HRC/37/53/Add.1](#) and [A/HRC/43/43/Add.2](#).

¹³ See, for example, DNK 3/2020, concerning Denmark, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25636>, and the response of the Government, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35885>; and ALB 1/2015, concerning Albania, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=13713>, and the response from the Government, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=32632>.

¹⁴ See [A/HRC/47/53](#).

¹⁵ See, for example, the submission from Ayuda Legal Puerto Rico.

¹⁶ [A/76/408](#).

10. In its concluding observations, the Committee on the Elimination of Racial Discrimination has made specific recommendations¹⁷ to States on numerous occasions concerning segregation in housing. Recommended measures include the adoption of necessary legislative and policy measures to address problems of ethnically based social exclusion and segregation,¹⁸ prohibiting the construction of walls that separate communities of different ethnicities,¹⁹ ensuring that social housing programmes do not result in a situation of de facto racial segregation,²⁰ analysing the reasons behind the concentration of certain immigrant groups in particular areas, and addressing actions by private parties which may result in de facto segregation.²¹ It is worth noting that the Committee is currently reviewing a complaint lodged on 23 April 2018 by the State of Palestine against Israel under its inter-State communications procedure under article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination, which alleged among other that the segregationist policies and practices by Israel amount to a violation of article 3 of the Convention. The Committee also decided to establish an ad hoc Conciliation Commission which is due to work on an amicable settlement of the dispute between the two States parties.²²

11. When establishing the mandate of the Special Rapporteur,²³ States recognized that the right to adequate housing was anchored in the right to an adequate standard of living, as well as the right to non-discrimination, as set out in article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination. This legal basis underlines the fact that spatial segregation constitutes a prohibited, systemic form of discrimination that prevents realization of the right to adequate housing.

12. Spatial segregation goes hand in hand with a violation of one or several of the elements of housing as a human right, as defined by the Committee on Economic, Social and Cultural Rights in its general comment No. 4 (1991). These are, namely: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. The Special Rapporteur wishes to point to the aspect of location in particular, as key to understanding spatial segregation as a violation of the right to adequate housing, due to its inherent physical or geographic character. When housing is located in segregated neighbourhoods, it usually lacks infrastructure, basic services and connectivity, and access to schools of similar quality and to employment opportunities, and is subject to precarious or hazardous conditions. Core elements of the right to adequate housing are therefore violated, often simultaneously. The Committee has also made a number of references to spatial and residential segregation in its concluding observations²⁴ when commenting on the right to adequate housing.

13. In its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, the same Committee pointed out that States had an obligation to adopt an active approach to eliminating systemic discrimination and segregation in practice, particularly through a range of laws, policies and programmes, including temporary special measures. The Committee further recognized in its general comment No. 5 (1994) on persons with disabilities that segregation and isolation constituted more “subtle” forms of discrimination achieved through the imposition of physical and social barriers, and that, through practices of exclusion, distinction or separation, persons with disabilities had very often been prevented from exercising their economic, social or cultural rights on an equal basis with persons without disabilities.

¹⁷ See [CERD/C/ISR/CO/17-19](#), [CERD/C/UZB/CO/10-12](#), [CERD/C/SWE/CO/22-23](#), [CERD/C/NPL/CO/17-23](#), [CERD/C/SVK/CO/11-12](#), [CERD/C/SRB/CO/2-5](#) and [CERD/C/PAK/CO/21-23](#).

¹⁸ See [CERD/C/TKM/CO/6-7](#).

¹⁹ See [CERD/C/SVK/CO/11-12](#).

²⁰ See [CERD/C/MUS/CO/15-19](#).

²¹ See [CERD/C/ATG/CO/9](#).

²² See <https://www.ohchr.org/EN/HRBodies/CERD/Pages/InterstateCommunications.aspx>.

²³ Commission on Human Rights resolution 2000/9.

²⁴ See [E/C.12/DNK/CO/6](#), [E/C.12/MUS/CO/5](#), [E/C.12/MEX/CO/5-6](#), [E/C.12/SWE/CO/6](#) and [E/C.12/CHL/CO/4](#).

14. In outlining the framework of international human rights law addressing segregation, it is imperative to note that, historically, attention to segregation and its impacts on the violation of human rights has gone hand in hand with the international outcry and condemnation of apartheid, specifically the State-sanctioned apartheid system that took hold in South Africa for more than 80 years. The latter included a range of discriminatory policies and measures aimed at displacing black South Africans from their lands, imposing residential and comprehensive social segregation and a complete denial of political and civil rights.

15. Following a General Assembly resolution of 1966,²⁵ the international community defined apartheid as a crime against humanity in the International Convention on the Suppression and Punishment of the Crime of Apartheid, of 1973. The Convention, though adopted with the context of South Africa in mind, speaks more broadly to the question of apartheid, as well as segregation.

16. Aside from declaring apartheid a crime against humanity, the Convention specifies that racial segregation is an inhuman act resulting from the policies and practices of apartheid and as such is a crime which violates the principles of international law, and which constitutes a serious threat to international peace and security (art. 1). It further defines the “crimes of apartheid” as including several inhuman acts, including, inter alia, the deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part; and any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups (art. 2). It further establishes parameters under which international criminal responsibility applies for these crimes (art. 3) and requires States to take legislative and other measures to suppress and prevent any encouragements of the crime of apartheid and similar segregationist policies or their manifestations (art. 4).

17. In 1977, Protocol I Additional to the Geneva Conventions of 1949 recognized apartheid as a “grave breach” of the Protocol (art. 85, para. 4 (c)) without any geographical limitation. More recently, the Rome Statute of the International Criminal Court recognized the crime of apartheid as one of the acts constituting a crime against humanity (art. 7). There is, at present, interest in the Court’s investigation of the situation in the Occupied Palestinian Territory and renewed attention²⁶ to the crime of apartheid as defined in international law.

18. In considering provisions in international human rights law that are helpful for dealing with the issue of spatial segregation, it should further be noted that laws and regulations that require individuals to live in a particular area, settlement, home or institution are prima facie incompatible with the right to liberty of movement and freedom to choose one’s residence as enshrined in article 12 (1) of the International Covenant on Civil and Political Rights. Similarly, the Convention on the Rights of Persons with Disabilities refers to the equal right of persons with disabilities to live independently in the community and choose their place of residence and where and with whom to live on an equal basis, in its article 19. Restrictions on choosing one’s residence may only be permissible if they are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the International Covenant on Civil and Political Rights (see art. 12 (3) of the Covenant). As clarified by the Human Rights Committee in its general comment No. 27 (1999) on freedom of movement, the application of restrictions in any individual case must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality, such as, for example, limitations on the freedom of outsiders to settle in areas inhabited by indigenous or minority communities.²⁷

²⁵ General Assembly resolution 2202 (XXI).

²⁶ Yesh Din, *The Occupation of the West Bank and the Crime of Apartheid* (June 2020); Bt’selem, “A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid”, 12 January 2021; Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution* (April 2021); and Amnesty International, *Israel’s Apartheid against Palestinians: Cruel System of Domination and Crime against Humanity* (London, 2022).

²⁷ Human Rights Committee, *Lovelace v. Canada*, communication No. 24/1977, paras. 15–19, available from <https://juris.ohchr.org/Search/Details/286>.

19. This also means that voluntary clustering – where people from the same group decide to live together in a community – is not per se incompatible with international human rights law, as long as it does not have the purpose or effect of discriminatory exclusion of all members of other groups or result in unequal and discriminatory living conditions. Such clustering becomes a form of spatial segregation, and therefore of concern to the Special Rapporteur, when communities, defined by common race, ethnicity, caste, gender, language, religion, disability, income, sexual orientation or other characteristics, become subject to unequal enjoyment of the right to adequate housing as well as related human rights, whether instituted intentionally or by omission by State or private actors.

20. While national and local governments should adopt policies that encourage socially mixed neighbourhoods in order to overcome segregation and its lasting consequences, prohibiting access to housing in particular areas on the basis of race, nationality, religion, descent or any other prohibited grounds with a view to changing the composition of the residential population in a particular neighbourhood would be incompatible with international human rights law.²⁸ Inclusionary clustering that is voluntary in nature should not be confused with exclusionary spatial segregation, which is involuntary and has detrimental consequences on the equal enjoyment of human rights. Nor may limitations to the freedom of choice of residency to protect minorities justify discriminatory exclusion of members of such minorities from the equal enjoyment of the right to housing and other human rights, for example through discriminatory provision of public services, water and sanitation, health care or education to areas predominantly inhabited by members of such minorities.

III. Defining and identifying spatial segregation

21. Methodologies for measuring spatial segregation are instrumental in helping us understand how it is present, and what intensity it has, in a given city or regional context. According to whether spatial segregation is instituted by formal segregationist policies or not, the Special Rapporteur distinguishes two types of spatial segregation, “direct” and “indirect”, in the same way as we distinguish between direct and indirect discrimination. In some cases, spatial segregation is instituted by intentional policies, whereas in other cases it is the result of poorly conceived or implemented policies, or the lack of policies. In order to address spatial segregation, it is important first to understand its different manifestations.

A. Forms of spatial segregation

22. A major pattern of spatial segregation over the past decades has been the proliferation of informal settlements in the periphery of cities, where low-income and racial, caste-based, ethnic, migrant, internally displaced, refugee and other minority populations are often concentrated. In India, for example, there are significant and persistent patterns of spatial segregation based on caste and religious lines, with members of groups from scheduled castes, such as Dalits, and religious minorities, particularly Muslims, facing disproportionate segregation²⁹ in areas such as Juhapura in Ahmedabad.

23. The phenomenon of gated communities has proliferated across the globe over the past few decades as a way to provide “privacy, protection and prestige” for wealthy inhabitants. This form of spatial segregation has in fact expanded beyond the typical suburban gated communities to increasingly include luxury residential towers in city centres, which have similar characteristics. Research has shown how gated communities exacerbate residential

²⁸ CERD/C/DEU/CO/19-22, para. 12; and CERD/C/DNK/CO/20-21, para. 13; and see the concerns expressed by the Special Rapporteur in communication DNK 3/2020 available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25636> and the reply of Denmark thereto available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35885>.

²⁹ Gayatri Singh, Trina Vithayathil and Kanhu Charan Pradhan, “Recasting inequality: residential segregation by caste over time in urban India”, *Environment and Urbanization*, vol. 31, issue 2 (January 2019), pp. 615–634.

segregation, particularly through the privatization of space and services, and how the exclusionary restrictions by which they are governed serve to preclude potential buyers or renters on the basis of income, race or ethnic origin.

24. Placing people of particular vulnerable groups in institutions is also a form of spatial segregation that often results in violations of the right to adequate housing. Examples of institutions where people may be isolated or segregated are institutions for persons with disabilities, particularly for persons with developmental or mental disabilities, child protection institutions, care homes for older people, and correctional institutions. Minorities such as Roma and indigenous peoples in different regions of the world are also more prone to being isolated in such institutions. Refugees and internally displaced persons frequently end up in de facto spatial segregation, as they may spend many years in host territory camps which over time come to resemble informal settlements – lacking in infrastructure and services, and located far away from sources of livelihood and from mainstream schooling. More often than not, the living conditions in these institutions or camp settings do not conform with the right to adequate housing.

25. Since institutions illustrate a very specific type of spatial segregation, they will not be examined more closely in the present report, but the Special Rapporteur would nevertheless like to point out the detrimental effects they have on equal enjoyment of the right to adequate housing and other rights. To avoid spatial segregation and social exclusion, States should give preference to individual, decentralized and multi-generational housing within the community, which is accompanied by the required ambulatory or semi-stationary services as needed, instead of placing people in segregated institutional settings or collective accommodation. This is also necessary in order to ensure the right of older persons and persons with disabilities to live independently within the community with persons of their choice.³⁰ States must furthermore ensure that accommodation in institutions meets the criteria of housing adequacy, including the right to privacy, and avoids the overrepresentation of marginalized groups in such institutions. In order to ensure that living conditions in residential and correctional institutions conform to the same human rights standards applicable for persons living in individual housing, States should adopt minimum standards for the accommodation of persons in institutional settings that cover all elements of the right to adequate housing and other human rights.

B. Measuring spatial and residential segregation

26. An important body of social science research over the latter half of the twentieth century has contributed to the development of a range of methodologies and indices to measure segregation, particularly as it pertains to residential segregation by race, ethnicity and income. A long-established measure to compare levels of residential segregation of racial and ethnic groups within urban areas is the index of dissimilarity, which compares the evenness of distribution of groups across neighbourhoods in the same city or metropolitan area linking relative separation to dissimilarity and low separation to integration. While this is still one of the most commonly used measures, research over the past decades on residential segregation has expanded and has spurred the development of more comprehensive, multi-dimensional methodologies for measuring residential segregation. For example, one of the most influential studies in this area identified five distinct dimensions for assessing segregation – evenness, exposure, concentration, centralization and clustering.³¹ Evenness refers to the differential distribution of social groups among areas; evenness is maximized and segregation minimized when all areas have the same relative number of minority and majority groups as the city as a whole. Residential exposure refers to the degree of interaction between minority and majority group members within particular geographic areas of a city. Concentration refers to the relative amount of physical space occupied by a minority group in the urban environment. Centralization is the degree to which a group is spatially located

³⁰ See art. 19 of the Convention on the Rights of Persons with Disabilities; and principles 5–6 of the United Nations Principles for Older Persons, adopted in General Assembly resolution 46/91.

³¹ Douglas S. Massey and Nancy A. Denton, “The dimensions of residential segregation”, *Social Forces*, vol. 67, No. 2 (December 1988), pp. 281–315.

near the centre of an urban area, as marginalized groups are often forced to peripheral areas of cities. The last dimension in this measure is the degree of spatial clustering, that is, the extent to which areas inhabited by minority groups are clustered together in a particular space. There has also been an attempt to measure the level of segregation and ghettoization by a “segregation index”, relying on the index of dissimilarity, in the context of spatial segregation of Muslims in Indian cities.³²

27. Spatial mapping and data visualization tools have also greatly added to methods for identifying and measuring segregation, particularly in the fields of urban geography and urban planning. These maps most often take demographic, census and household-level data to demonstrate how spatial segregation patterns take hold in a particular territorial context, for example examining how diversified the ethnic, racial and income composition of a city is. In addition, such spatial tools can be used to overlay demographic data with other indicators, such as contemporary and historical land use data, providing important insights into factors that drive and intersect with conditions of residential segregation. Such maps may also help to make visible the “costs” or impacts of spatial segregation, for example the distances that residentially segregated communities face to access essential public services and facilities.

28. While such methodologies have largely been applied in academic investigations, they can provide a critical perspective to policymakers for better understanding and monitoring of the dynamics of residential segregation and how this takes hold in the spatial configuration of cities and neighbourhoods. In this context, States and local and regional governments should ensure the collection of robust and adequate data, disaggregated by grounds of discrimination recognized in international human rights law such as ethnicity, race, sex, age, gender identity, disability, income, religion and civil status. Moreover, this data should be analysed at the ward and district levels to identify and measure inequalities within and between neighbourhoods, at city and regional level.

IV. Drivers of segregation

29. Being a form of structural discrimination, it is critical to examine spatial segregation as a system of policies, measures and practices that perpetuate disadvantages for vulnerable groups. Contrary to misleading presumptions and generalizations that attribute residential segregation to the de facto prejudices or the “natural” preferences of private actors, research shows that residential segregation is very much the outcome of past and present State policies and measures (or the lack thereof). Discriminatory practices and prejudiced behaviours by private actors certainly play a role in exacerbating segregation but ultimately such practices should be monitored and regulated by States, as guided by international human rights standards.

30. The persistence of segregation in cities and territories across the globe is tied both to the legacy of former segregationist policies, and to policies, measures and practices, particularly land and housing policies, that appear neutral but have a discriminatory effect and lead to segregated territories, impacting detrimentally on the enjoyment of the right to adequate housing by all. These “drivers” of segregation are often present simultaneously, working as a complex assemblage of factors that can drive and compound spatial segregation.

31. Drivers of segregation often reflect macro processes driving inequality in territories, such as the financialization and commodification of housing and land. In recent decades, many cities have seen an extreme concentration of wealth which, combined with the lack of regulations on land and housing speculation, has led to concentrations of wealthy neighbourhoods, displacing low- and moderate-income households and exacerbating patterns of spatial segregation.

³² Raphael Susewind, “Muslims in Indian cities: degrees of segregation and the elusive ghetto”, *Environment and Planning A: Economy and Space*, vol. 49, issue 6 (June 2017), pp. 1286–1307.

A. Land use planning and discriminatory zoning

32. Land use planning policies and instruments are decisive in determining how and in what conditions development takes place in a given territory and, consequently, the conditions in which households and neighbourhoods are situated. Land use planning and mechanisms such as zoning and urban planning are in many countries governed largely at local level, but can also be determined by national legislation, judicial rulings, policies, measures, guidelines and funding. In fact, in some countries, zoning and land use planning is largely centralized. Therefore, critically examining how land use planning may be contributing to segregation must include taking stock of policies and frameworks on land administration at multiple scales of governance.

33. A prominent form of discriminatory practice in land use planning, including, for example, in the United States of America, is exclusionary zoning, or zoning practices that effectively bar low- and moderate-income households from finding affordable housing due to the imposition of density restrictions.³³ It can include practices such as single-family zoning, ordained minimum lot sizes, restrictions on the number of units in multi-family buildings and caps on the height of buildings. Such regulations increase the costs of housing and land and constitute barriers to the construction of affordable housing. In the United States, extensive research has shown how exclusionary zoning perpetuates racial segregation. In cities and towns where exclusionary zoning measures were present, data shows there was a higher concentration of predominately white residents and a marked lack of racial, ethnic and socioeconomic diversity.³⁴

34. Differential, discriminatory treatment in land use planning can also include regulations such as growth caps and restrictions on building permits, which can compound conditions of spatial segregation in a particular neighbourhood and community. In the Occupied Palestinian Territory, for example, civil society testimony points to how the discriminatory application of planning regulations and procedures by Israeli authorities serves to hinder the development of Palestinian communities and the provision of basic services.³⁵ This includes measures such as the arbitrary and strict restriction of construction permits in Area C of the West Bank for Palestinian residents, while simultaneously permitting the expansion of illegal Israeli settlements that are only for Jewish residents. For example, between 2009 and 2018, only 2 per cent of permits to build were approved. In addition, Palestinian communities in Area C of the West Bank are under constant threat of forced eviction and demolition of their homes and infrastructure. During the first quarter of 2021 alone, Israeli authorities seized, demolished or forced people to demolish at least 292 Palestinian-owned structures across the West Bank, including East Jerusalem, displacing 450 people, including 246 children.³⁶

35. Zoning and land use decisions can also have a discriminatory effect and compound conditions of spatial segregation when neighbourhoods with a concentration of low-income or minority group households are targeted for increased industrial use zoning and other forms of land use that result in increased pollution, contamination or other environmental health hazards. In the United States, for example, numerous studies have found that polluting industrial facilities, fossil-fuel storage and transportation sites and waste facilities are disproportionately located in low-income neighbourhoods and communities of colour.³⁷

³³ Andrew H. Whittemore, “Exclusionary zoning”, *Journal of the American Planning Association*, vol. 87, issue 2, pp. 167–180.

³⁴ Jessica Trounstein, “The geography of inequality: how land use regulation produces segregation”, *American Political Science Review*, vol. 114, No. 2 (February 2020), pp. 443–455.

³⁵ Submission from the United Nations Human Settlements Programme (UN-Habitat) in the State of Palestine.

³⁶ Office for the Coordination of Humanitarian Affairs, West Bank demolitions and displacement: March 2021.

³⁷ Rachel Morello-Frosch and Russ López, “The riskscape and the color line: examining the role of segregation in environmental health disparities”, *Environmental Research*, vol. 102, No. 2 (October 2006), pp. 181–196.

B. Physical barriers

36. The erection of physical barriers or separation walls between communities constitutes a particularly egregious form of spatial segregation, often observed in contexts where forms of ethnic, religious or other social conflict and intolerance are present. In Jerusalem, for example, the Palestinian neighbourhood of Kafr Aqab in East Jerusalem is separated from the rest of the city by a concrete barrier placed by Israeli authorities. This segregation has subjected the area to inadequate public infrastructure, overcrowding and a concentration of poverty and insecurity, since the neighbourhood does not receive the same attention from municipal services as areas outside the separation wall.³⁸

37. In many other regional contexts, physical walls have been put up to separate impoverished informal settlements from surrounding neighbourhoods and to limit the growth of these communities. In Ahmedabad, India, for example, the local municipal corporation built a 500-metre-long wall in front of the Saraniyavaas informal settlement as part of “beautification project” to hide the impoverished slum area from view of a highway. The area is home to over 2,500 people from the Saranias ethnic community, who have resided there for numerous generations.³⁹ In Lima, Peru, a six-mile long concrete wall, 10 feet high and topped with barbed wire, separates the city’s rich residents from less affluent and poor residents.⁴⁰

38. The development of gated communities is another form of spatial segregation in which the construction of physical barriers is employed. Generally, gated communities are considered to be residential areas that are enclosed by the use of gates, walls, fences or landscaping that provide a physical barrier to entry both to the residences and to the public spaces, services and amenities that the neighbourhood contains.⁴¹ These residential areas are most often managed by self-governing homeowner associations, which establish covenants, conditions and restrictions as part of the deed (including the collection of fees), and also commonly contain private security staff and systems to monitor access, such as CCTV systems, as well as private maintenance.⁴²

39. In addition to walls and fences, it should be recognized that other physical barriers and markers of division, such as railways and roadways, segregate communities and neighbourhoods.

C. Forced evictions and displacement

40. Since its creation, the mandate has given extensive attention to how forced evictions and displacement constitute a gross violation of the right to adequate housing and other interrelated human rights.⁴³ By displacing entire communities, often to new locations lacking in infrastructure and detached from educational facilities and sources of livelihood, forced evictions often result in spatial segregation and lead to impoverishment or worse living conditions.⁴⁴ Since March 2020, the mandate has sent at least 19 communications⁴⁵ flagging how forced evictions have exacerbated vulnerabilities during the COVID-19 pandemic,

³⁸ Submission by the International Alliance for Peace and Development, available at <https://www.ohchr.org/en/calls-for-input/2021/call-inputs-housing-discrimination-and-spatial-segregation>.

³⁹ See <https://thewire.in/government/gujarat-ahmedabad-slum-wall-donald-trump>.

⁴⁰ See <https://www.theatlantic.com/international/archive/2019/09/peru-lima-wall/597085/>.

⁴¹ Elena Vesselinov, “Members only: gated communities and residential segregation in the metropolitan United States”, *Sociological Forum*, vol. 23, No. 3 (September 2008), pp. 536–555.

⁴² Rowland Atkinson and Sarah Blandy, “Introduction: international perspectives on the new enclavism and the rise of gated communities”, *Housing Studies*, vol. 20, No. 2 (March 2005), pp. 177–186.

⁴³ See, for example, [E/CN.4/2004/48](#), [A/HRC/4/18](#), [A/HRC/43/43](#) and [A/73/310/Rev.1](#).

⁴⁴ See the submission from the European Roma Rights Centre.

⁴⁵ See communications KEN 1/2020, BRA 5/2020, KEN 3/2020, BRA 8/2020, ZAF 2/2020, ITA 4/2020, IND 14/2020, ISR 7/2020, NPL 3/2020, GUY 1/2020, ISR 11/2020, UZB 3/2020, UZB 2/2020, BGD 8/2020, KEN 1/2021, BHS 2/2021, PAK 6/2021, IND 13/2021 and ROU 3/2021. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

especially forced evictions of marginalized communities. As many segregated communities do not enjoy security of tenure, they are also more vulnerable to being subjected to repeated forced evictions. Areas where minority communities live are also subject to higher risks of eviction and forced displacement due to gentrification, speculation, and higher land and housing prices.⁴⁶

41. In a comprehensive evaluation of forced displacement patterns in the city of Milwaukee, United States, a study found that renters who experienced forced relocation were more likely to relocate to more disadvantaged neighbourhoods, with increased poverty and crime rates, in comparison to households that moved voluntarily.⁴⁷ In Delhi, India, a study of forced evictions of *jhuggi jhopri* clusters, or informal settlements of urban migrants, found that, over several decades, cluster residents in centrally located areas were systematically targeted for evictions in the name of infrastructure development, urban “beautification” and health considerations and were resettled in increasingly peripheral sites. Over time, resettlements sites had been constructed further from the core of the city, placing the residents up to four hours away from central locations, and necessitating long, expensive bus rides to reach employment opportunities and urban amenities.⁴⁸

D. Social and public housing policies

42. A major challenge in addressing spatial segregation is closely tied to social, public and affordable housing policy. Too often, social housing is located in peripheral and underresourced parts of cities, perpetuating segregation. In Chile, for example, research points to how a majority of social housing complexes have been located in distant peripheral areas of major cities.⁴⁹ After her visit to Chile, the previous Special Rapporteur noted this legacy of historic segregation and isolation of the most marginalized segments of the population, with many living in low-quality units, and emphasized that this required immediate attention to prevent further exclusion.⁵⁰ In France, research points to how the concentration of public housing in peripheral areas of cities has led to marginalization of the communities that reside in those neighbourhoods, particularly migrants and racial and ethnic minorities that are disproportionately housed in these suburbs.⁵¹

43. The lack of central- and local-level housing policies to direct the allocation of adequate land for the construction of affordable housing contributes to this problem. It also underscores how land policies must be tied to housing policies that advance the enjoyment of the right to adequate housing.

44. Systemic barriers to accessing social housing programmes can also contribute to spatial segregation, for example where regulations systematically prohibit or limit the ability of members of particular groups, such as migrants, internally displaced persons, or persons experiencing extreme poverty, to apply for or access affordable housing. Eligibility requirements such as minimum incomes, credit scores, formal employment and residency permits are examples of the type of possible discriminatory barriers. Such systematic denial

⁴⁶ Massachusetts Institute of Technology, Displacement Research and Action Network, *Forced from Home: A Human Rights Assessment of Displacement and Evictions in Boston’s Chinatown* (2017), available at

<https://static1.squarespace.com/static/56340b91e4b017e2546998c0/t/5c7811640852290f392207ca/1551372655581/CPA+report+final+2019.pdf>.

⁴⁷ Matthew Desmond and Tracey Shollenberger, “Forced displacement from rental housing: prevalence and neighborhood consequences”, *Demography*, vol. 52, No. 5 (October 2015), pp. 1751–1772.

⁴⁸ Massachusetts Institute of Technology, Displacement Research and Action Network, “The geography of post-eviction resettlement in Delhi”, 2014, available at <http://mitdisplacement.org/delhi-1>.

⁴⁹ Francisco Sabatini and Guillermo Wormald, “Segregación de la vivienda social: reducción de oportunidades, pérdida de cohesión”, in *Segregación de la Vivienda Social: Ocho Conjuntos en Santiago, Concepción y Talca*, Francisco Sabatini, Guillermo Wormald and Alejandra Rasse, eds., pp. 12–31 (Santiago, Colección Estudios Urbanos UC, 2013).

⁵⁰ See [A/HRC/37/53/Add.1](#).

⁵¹ Gregory Verdugo and Sorana Toma, “Can public housing decrease segregation?: lessons and challenges from non-European immigration in France”, *Demography*, vol. 55, No. 5 (October 2018), pp. 1803–1828.

or lack of access to affordable housing options contributes to the disproportionate number of households from vulnerable groups concentrating in high-poverty neighbourhoods and, in many countries, in informal settlements. In China, for example, research points to how migrant workers or other mobile population groups that do not have city resident permits under the *hukou* household registration system are not eligible for the affordable housing programmes in urban areas, forcing these households to find shelter in informal settlements or “urban villages” with substandard living and sanitation conditions.⁵²

45. In Lebanon, civil society testimony states that many low-income families are concentrated in areas of environmental risk because this is where they are able to access low rents – such as communities near the Zouk Mikael power plant (north of Beirut), communities living near dumpsites in Burj Hammud, Tripoli, Sidon and Costa Brava, and communities living in flood zones (such as those living in Hay el-Sellom next to the Ghadir River or in informal neighbourhoods of Ouzai).⁵³

46. In Poland, it is reported that municipal housing for low-income tenants in Warsaw is often located in run-down old buildings with poor sanitary conditions – more than 18 per cent of municipal housing stock in Warsaw is in poor condition, more than 30 per cent of municipal flats do not have access to a bathroom and toilet and 27 per cent lack adequate heating.⁵⁴

E. Criminalization and stigmatization of minority groups

47. Public policies that directly or indirectly stigmatize or criminalize vulnerable groups and the neighbourhoods in which they reside can also contribute to driving and compounding segregation.

48. A group that has often been a systematic target of discrimination, stigmatization, and criminalization policies is sex workers, the majority of whom are women and many of whom identify as LGBTQI+ and migrants. Historically and to date, sex work has generally been segregated from the rest of society in the form of red light districts. These zones are often designated in areas that are more desolate and harbour a greater risk of violence against sex workers. In countries where sex work has been legalized and is regulated, such as Austria, Germany, the Netherlands and Switzerland, there are still laws and policies restricting the spatial distribution of sex work businesses. In Germany, for example, there are so-called “locked zones”, in which sex work is not allowed to take place. Urban gentrification in German cities has resulted in an expansion of locked zone areas, pushing brothels and other sex work venues out of inner cities and into more peripheral areas.⁵⁵

49. In India, the Gujarat Disturbed Areas Act, of 1991, gives the State government power to declare an area “disturbed” on arbitrary grounds such as the perceived improper clustering of people, polarization or the maintenance of demographic equilibrium, and allows the State to bar persons from undertaking the sale or purchase of properties in a “disturbed area”. This has resulted in the stigmatization and discrimination of minority groups, particularly Muslims, and is being challenged in courts for the ghettoization and spatial segregation it has driven.⁵⁶

⁵² See <https://www.lincolnst.edu/publications/articles/affordable-housing-china>.

⁵³ Submission by Public Works Studio, Lebanon.

⁵⁴ Submission by Habitat for Humanity Poland.

⁵⁵ Submission by the Global Network of Sex Work Projects; also see the submission by Stella.

⁵⁶ See <https://thewire.in/law/improper-clustering-gujarat-hc-bars-state-govt-from-declaring-localities-disturbed-areas> as well as the submission of advocate Vrinda Grover available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/SubmissionsCFIhousingdiscrimination/Grover.docx>.

V. The impact of segregation on the enjoyment of other interrelated human rights

50. Spatial segregation can lead to the violation of other interrelated human rights, such as the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the right to food, the right to safe drinking water and sanitation, the right to education, the right to work and the right to safety and security of person. Communities in residentially segregated neighbourhoods face human rights impacts ranging from higher risks of serious health conditions, such as cancer, to detrimental impacts on basic livelihoods, such as access to job opportunities and quality education.

51. Segregated areas in which low-income and minority residents are concentrated are often deprived of basic utility services and infrastructure. In Eastern Europe for example, Roma communities are concentrated in segregated neighbourhoods that lack basic utilities. In Bulgaria, for instance, half of the Roma-inhabited households in segregated areas have no sewage system, and in Romania over 40 per cent of Roma communities lack access to running water.⁵⁷ Such inadequate conditions in spatially segregated neighbourhoods affect the habitability of housing.

52. In the face of increasing threats that climate change poses to human settlements, the question of location gains particular importance in securing the right to adequate housing. Segregated communities that are in environmental risk zones, such as flood risk zones, or areas vulnerable to landslides or other natural disasters, more regularly experience the impacts of climate change.

53. The location of housing also has an impact on the enjoyment of the human right to a clean, healthy and sustainable environment. In Kenya, the informal settlements of Dandora and Korogocho in Nairobi near the city's main dump site are exposed to toxic conditions, air pollution and contamination of ground water.⁵⁸ In Cluj Napoca, Romania, hundreds of Roma households evicted from the city centre were forced to relocate in the polluted and marginalized Pata Rat area, near municipal landfills.⁵⁹

54. Residential segregation is a fundamental cause of racial disparities in health and is directly correlated with other social determinants of health.⁶⁰ In Europe, studies point to a correlation between systemic discrimination, segregation in housing, poor health statistics and a reduced lifespan of Roma compared to other population groups.⁶¹ A study on segregation and racial disparities with regard to cancer in the United States found that residing in segregated African American areas was associated with higher rates of later-stage diagnosis of breast and lung cancer, higher mortality rates and higher cumulative cancer risks associated with exposure to ambient air toxics.⁶² The factors affecting segregation and the right to health can be varied, and include exposure to environmental hazards, lack of access to health-care facilities and services, and exposure to uninhabitable or inadequate living conditions, such as overcrowding.

55. The COVID-19 pandemic has manifested acutely how households in spatially segregated neighbourhoods are often lacking in energy, water and sanitation services, and therefore cannot observe public health and safety measures.

56. The right to education is also affected by spatial segregation, as segregation can affect access to educational facilities, and the quality of education, and may also result in de facto

⁵⁷ Submission by the European Roma Rights Centre.

⁵⁸ Submission by the Single Mothers Association of Kenya.

⁵⁹ See the summary report of the consultation with civil society organizations, available from https://www.ohchr.org/EN/Issues/Housing/Pages/CFI_Segregation.aspx.

⁶⁰ D.R. Williams and C. Collins, "Racial residential segregation: a fundamental cause of racial disparities in health", *Public Health Reports*.

⁶¹ European Public Health Alliance, "Health inequalities: a persistent obstacle for Roma inclusion – Reflection paper on Union of Equality: EU Roma strategic framework on equality, inclusion and participation" (October 2020).

⁶² Hope Landrine et al., "Residential segregation and racial cancer disparities: a systematic review", *Journal of Racial and Ethnic Health Disparities*, vol. 4, No. 6 (December 2017), pp. 1195–1205.

segregation in education. In Zambia, for example, where residential segregation is largely driven by a proliferation of informal settlements, the communities concerned have long distances to travel to reach educational facilities.⁶³ In the United States, residential segregation often results in de facto school segregation marked by acute differences in education outcomes, as students are often assigned to schools in their neighbourhood and school funding is tied to property taxes.⁶⁴ Where there is concentrated poverty in segregated neighbourhoods, it is likely that schools will be underfunded and underresourced.

57. Most recently, in light of the global movement to address systemic racism and police violence, there has been increased attention to how racial profiling and police violence disproportionately affect racial and ethnic minorities living in segregated neighbourhoods. Such examinations also raise the question of how policing practices serve to reinforce spatial segregation by, for example, targeting racial and ethnic minorities in areas that have mostly white residents, as a way of excluding non-white residents from these residential areas.⁶⁵ This is one example of how segregation and policing can affect the right to safety and security of the person.

VI. Addressing spatial segregation

58. Just as State policies and measures can drive and compound spatial segregation, they can also play a central role in preventing and addressing segregation and its impacts on the right to adequate housing and interrelated human rights. Since many complex factors drive and compound spatial segregation, a robust combination of interventions is necessary. Measures and strategies that guarantee the right to adequate housing have included reforms to housing, urban and land use policy, neighbourhood investment and in situ upgrading initiatives, anti-displacement and just resettlement policies, and more broadly redistributive measures. Solutions to address spatial segregation should be oriented around the principles of non-discrimination, equality, justice, inclusion and spatial redistribution, and should ensure the integral protection and fulfilment of all components that constitute the right to adequate housing.

A. International frameworks

59. The right to the city movement and social and spatial justice movements provide an important contribution to how equitable development, free of discrimination and spatial segregation, can be envisioned and advanced. The New Urban Agenda and the 2030 Agenda for Sustainable Development recognize the need for inclusionary development and to leave no one behind. The New Urban Agenda recognizes that social and economic exclusion and spatial segregation are regrettably an irrefutable reality in cities and human settlements.⁶⁶ States therefore committed “to stimulating the supply of a variety of adequate housing options that are safe, affordable and accessible for members of different income groups of society, taking into consideration the socioeconomic and cultural integration of marginalized communities, homeless persons and those in vulnerable situations and preventing segregation”.⁶⁷ They underlined their vision that cities and settlements provided “universal access to safe and affordable drinking water and sanitation, as well as equal access for all to public goods and quality services in areas such as food security and nutrition, health, education, infrastructure, mobility and transportation, energy, air quality and livelihoods”.⁶⁸ States furthermore agreed to “promote planned urban extensions and infill, prioritizing renewal, regeneration and retrofitting of urban areas, as appropriate, including the upgrading of slums and informal settlements, providing high-quality buildings and public spaces,

⁶³ Submission by Habitat for Humanity Zambia.

⁶⁴ Anurima Bhargava, “The interdependence of housing and school segregation”, 2017.

⁶⁵ See <https://furnancenter.org/research/iri/essay/the-dynamics-of-policing-and-segregation-by-race-and-class>.

⁶⁶ New Urban Agenda, para. 3.

⁶⁷ *Ibid.*, para. 33.

⁶⁸ *Ibid.*, para. 13 (a).

promoting integrated and participatory approaches involving all relevant stakeholders and inhabitants and avoiding spatial and socioeconomic segregation and gentrification”.⁶⁹

B. Strategic litigation

60. Although only a few examples could be identified where spatial segregation had been challenged successfully in courts, strategic litigation represents a powerful strategy that residents and others acting in their interest can employ to challenge spatial segregation and the measures that lead to or result from such segregation. Such litigation is not only explored through domestic courts, but is also increasingly possible through international judicial mechanisms, including the International Criminal Court, especially as there is renewed attention to the phenomenon of apartheid, a crime under international law.

61. Instances of strategic litigation can be found in many countries. For example, in South Africa, Ndifuna Ukwazi challenged the 2016 sale of a government-owned property in central Cape Town to a private developer instead of it being identified as a site suitable for social housing. In a recent groundbreaking judgment in the case,⁷⁰ Western Cape High Court held that the sale was in contravention of the provincial and local government’s constitutional and statutory obligations, especially regarding the fulfilment of the rights of access to land and housing for the purpose of addressing the past spatial inequalities in central Cape Town. In his decision, the presiding judge stated: “It is fair to say that the statutory and policy framework which finds its origins in the Constitution and the legislation mandated thereunder, renders it necessary [for the State] to redress the legacy of spatial apartheid as a matter of constitutional injunction. The constitutional and statutory obligations of ... government to provide access to land and housing on a progressive basis, encompass the need to urgently address apartheid’s shameful and divisive legacy of spatial injustice and manifest inequality.”⁷¹

C. Housing policies

62. Situating public and social housing on well-located land, with adequate infrastructure and services, and with access to livelihood opportunities, is an effective way of preventing spatial segregation. To ensure social integration, authorities can specify that building permits or urban renewal projects may only be approved if a certain percentage of all newly erected or renovated housing units are designated as public or social housing. The erection of separate “social housing blocks”, which in many countries are subject to social exclusion or rapid deterioration, can be prevented if regulations specify that buildings with multiple housing units must contain a certain percentage of public or social housing units, including units that are accessible for older persons and persons with disabilities.

63. The creation of land banks is an important mechanism through which States and local governments can allocate public, vacant or other underused land in centrally located, well-serviced areas for the development of affordable housing. In Uruguay, for example, measures taken at the local level in the municipality of Montevideo,⁷² as well as at the national level through the Ministry of Housing,⁷³ have led to the establishment of State land banks to allocate land to social housing projects. These have been instrumental in transferring hundreds of parcels for the development of affordable housing, particularly through mutual aid cooperatives.

⁶⁹ Ibid., para. 97.

⁷⁰ *Adonisi and others v. Minister for Transport and Public Works Western Cape and others; and Minister of Human Settlements and others v. Premier of the Western Cape Province and others.*

⁷¹ Submission by Ndifuna Ukwazi, South Africa.

⁷² Adriana Berdía and Beatriz Rocco, “Apuntes sobre 25 años de la cartera de tierras en Montevideo”, *Cartera Municipal de Tierras para Vivienda, Vivienda Popular*, vol. 30 (2018), pp. 86–93.

⁷³ Carlos Mendive, “Cartera de inmuebles para vivienda de interés social: alternativas para la provisión de suelo en Uruguay”, in *Instrumentos Notables de Políticas de Suelo en América Latina*, Martim O. Smolka and Fernanda Furtado, eds., p. 95.

64. Housing voucher programmes, which provide government subsidies to assist low-income households to pay rent in privately owned, market-rate housing, are another type of housing policy that, if effectively designed and implemented, can contribute to addressing residential segregation. A recent study in the city of Seattle, in the United States, found that when designed to facilitate the mobility of households into “high opportunity” neighbourhoods, housing voucher programmes can help reduce residential segregation and increase the upward economic mobility of households.⁷⁴ The programme included support services for households to access housing in “high opportunity” neighbourhoods, such as assistance with the housing search, landlord engagement and short-term financial assistance. As housing voucher holders often face discrimination from landlords when seeking housing, housing policies aimed at addressing residential segregation should pay attention to such discrimination.

65. In Singapore, an ethnic integration housing policy in place since the late 1980s requires that housing projects provided by the State Housing and Development Board include a specific quota of units for minority households.⁷⁵ The aim of this policy is to prevent the creation of ethnic enclaves and to ensure the inclusion of minority groups into the State social housing programmes. While such policies can be part of the type of special measures that authorities advance to affirmatively seek more inclusionary development, caution should be exercised to ensure that integration efforts in any housing policy do not take the form of forced racial quotas which could create new forms of exclusion, induce social conflict and violate the human rights of residents.

D. Urban and territorial planning

66. Advancing urban and territorial planning that centres on equitable and inclusionary development is critical to addressing spatial segregation and ensuring the right to adequate housing for all. This includes reforms in planning mechanisms to ensure that there is non-discrimination and resident participation in the application of zoning, in land use and in other development measures. Where exclusionary measures are in place that have a detrimental impact on minority groups, such as arbitrary restrictions on building permits which hinder the construction of affordable housing, these should be prohibited.

67. Since urban and territorial planning is regulated by both national and local institutions in most countries, reforms at both these levels can contribute to addressing spatial segregation. In South Africa, for example, the Spatial Planning and Land Use Management Act, of 2013, has put in place directives for local territorial planning that places spatial justice at the core of land use policy, stipulating that spatial planning should address racial inequality, segregation and unsustainable settlement practices.⁷⁶ This national legislation has provided an important legal foundation for inclusionary housing and zoning, and allows municipalities to require private developers to provide affordable housing at below-market rates when new residential or mixed-use developments are constructed.

68. Inclusionary zoning policies typically specify that developers must sell or rent 10 to 30 per cent of the units to lower-income residents, develop affordable housing off-site, failing to do so they must pay a fee to a municipal fund for affordable housing. In expanding access to housing for disadvantaged households, inclusionary zoning can be an important tool to help desegregate cities. To this end, attention should be paid to the specific ways inclusionary zoning policies are implemented in conjunction with housing policies, as measures should be designed to ensure that eligibility requirements allow households from marginalized groups to access the units made available, that the units are provided under equitable conditions as compared with the rest of the housing development (no “poor doors”) and, in cases where

⁷⁴ Peter Bergman et al., “Creating moves to opportunity: experimental evidence on barriers to neighborhood choice”, National Bureau of Economic Research working paper No. 26164.

⁷⁵ See the submission of Singapore as well as <https://www.gov.sg/article/hdbs-ethnic-integration-policy-why-it-still-matters>.

⁷⁶ See <http://award.org.za/wp/wp-content/uploads/2020/02/AWARD-Guideline-Spatial-Planning-and-Land-Use-Management-Act-2019-v1.pdf>.

the affordable housing is developed off-site, that the allocation of units on well-located land is prioritized.

69. At a local level, other innovative examples exist of how zoning and land use planning measures are being reformed to address spatial segregation. In the city of Boston, United States, for example, the city council passed an ordinance in 2019 that requires developers to give the same consideration to racial integration and anti-discrimination as to environmental impacts and transportation.⁷⁷ Specifically, this includes: (a) a historical exclusion and displacement report on the property being purchased; (b) a comprehensive assessment tool to analyse the impact of their development on the social-spatial fabric, which takes into account matters such as rents and possible economic displacement; and (c) a list of mitigation measures that can be taken by developers, such as the inclusion of additional affordable housing units or providing tenants with the right of first refusal in case of purchase. These tools permit the city government to assess more comprehensively all projects and the required mitigation measures, and to ultimately decide whether the development project should be allowed to move forward or not.

70. Land value capture mechanisms in urban and territorial planning, such as property taxes, building fees for large developers and betterment contributions, can help address spatial injustice. When the revenue generated from such public fees and taxes is reinvested into distressed communities and affordable housing, these measures can help spatially redistribute the value generated from land and development and ameliorate spatial segregation.

71. Alongside such policy or regulatory measures to effectively address spatial segregation, it is important to ensure that participatory processes are built into local planning and that guidelines are in place for spatial planning. The United Nations Human Settlements Programme (UN-Habitat) International Guidelines on Urban and Territorial Planning⁷⁸ include an explicit focus on strategies for addressing spatial segregation as a component of advancing inclusionary, equitable development.

E. Neighbourhood upgrading programmes

72. Ensuring that communities have adequate and equitable access to essential public infrastructure and services, in ways that safeguard the right to a healthy environment and the right to livelihood opportunities, is critical to addressing spatial segregation and guaranteeing the right to adequate housing. In this regard, neighbourhood improvement or neighbourhood revitalization programmes, and participatory slum upgrading programmes, have become important for how comprehensive approaches can be advanced.

73. Integral neighbourhood improvement programmes seek to better the living conditions and quality of life in distressed communities through interventions – collaboratively led by local residents, community organizations and local authorities – in the physical, social and economic infrastructure, the environment and governance. This can include strategies to rehabilitate housing, the improvement of transportation networks and infrastructure, expanding employment and economic opportunities, improving public space, and beyond. In Berlin, for example, a neighbourhood management and social cohesion programme⁷⁹ was launched as a strategy in 1999 to address social segregation and promote a socially integrative city by supporting improvements in disadvantaged, distressed districts of the city, including inner city and suburban neighbourhoods. Through the creation of neighbourhood councils, residents decide how funds are allocated for neighbourhood improvements in action areas such as education, training and youth programmes, public space, and employment and local economy programmes.

⁷⁷ See the summary report of the consultation with local and regional governments, available from https://www.ohchr.org/EN/Issues/Housing/Pages/CFI_Segregation.aspx.

⁷⁸ UN-Habitat, *International Guidelines on Urban and Territorial Planning* (2015).

⁷⁹ See https://ec.europa.eu/regional_policy/en/projects/germany/berlins-neighbourhood-management-project-brings-decision-making-on-social-development-to-the-local-level and <https://www.quartiersmanagement-berlin.de/english/goals.html>.

74. In Latin America and Africa, such interventions most often focus on improvements in informal settlements. These programmes, also known as slum upgrading, refer to physical, social, economic, organizational and environmental improvements in informal settlements, particularly improvements in housing and basic infrastructure, that are undertaken collaboratively between residents, community groups and authorities.⁸⁰ Interventions in these upgrading programmes often focus on the installation or improvement of basic infrastructure such as water supply, sanitation, waste collection, and road networks; housing improvement; the construction or rehabilitation of community facilities such as health and day-care centres; and the removal or mitigation of environmental hazards. Of particular importance in such contexts, too, is the regularization of security of tenure. The previous Special Rapporteur has provided detailed human rights guidance for the implementation of such programmes.⁸¹

75. Neighbourhood improvement and slum upgrading programmes point to how adequate investments in communities, through resident-led processes, can help create vibrant neighbourhoods and diminish conditions of spatial segregation. In this context, it is important to take into consideration how interventions may affect community stability and, accordingly, to put into place measures that ensure that improvements do not lead to gentrification – displacing residents, particularly those from disadvantaged groups.

VII. Conclusions and recommendations

76. **Decades after the end of apartheid in South Africa and of residential segregation enforced by colonial or racially dominated policies, spatial segregation is still present in societies all over the world, deepening and entrenching inequalities and discrimination. In the present report, the Special Rapporteur has taken a fresh look at how spatial segregation is a reflection of multiple, compounded and intersectional forms of discrimination and exclusion which not only violate the right to adequate housing but also a range of other human rights. Spatial segregation, whether it occurs due to voluntary clustering or involuntary segregation and ghettoization, can no longer be an excuse for unequal enjoyment of the right to adequate housing and of other interrelated human rights. States and local governments need to pay more attention to urban policies, such as building or zoning regulations or urban renewal policies, that may at first glance look non-discriminatory, but entrench spatial segregation, exclusion and housing discrimination. The Special Rapporteur remains concerned that active and deliberate policies of spatial segregation are still being deployed in some countries as tactics of ensuring racial, religious and other forms of domination. States need to prevent, prohibit and eradicate all practices amounting to spatial segregation and apartheid, as required by international law including the International Convention on the Elimination of All Forms of Racial Discrimination.**

77. In line with the analysis offered in the present report, the Special Rapporteur recommends that national, regional, local and other public authorities, and public and private housing providers, as appropriate, should:

(a) Refrain and desist from actively pursuing segregationist policies and practices, resulting in violation of the right to adequate housing and of the prohibition of discrimination, which may under certain circumstances amount to the crime of apartheid under international law;

(b) Define and prohibit spatial segregation in law as a violation of the right to non-discrimination and of the right to adequate housing, and enable victims to seek redress through courts, including by providing judges and lawyers with training and sensitization;

⁸⁰ UN-Habitat, *A Practical Guide to Designing, Planning and Executing Citywide Slum Upgrading Programmes*.

⁸¹ See [A/73/310/Rev.1](#).

(c) Undertake a rigorous analysis of their laws, regulations, policies and programmes, at national and local level, to ensure that these do not result in or contribute to conditions amounting to spatial segregation;

(d) Regularly assess, through disaggregated data, at the ward or neighbourhood level, the spatial distribution of disparate communities, and their access to the enjoyment of all human rights including the right to adequate housing, and make such assessments and data publicly available;

(e) Adopt measures to regulate the actions of private entities, such as business developers, to ensure that their actions do not create or reinforce spatial segregation, including through the creation of gated communities;

(f) Advance policies and measures in urban and land use planning that explicitly address spatial segregation – such as inclusionary zoning, land banks and housing voucher programmes for affordable and social housing;

(g) Reform urban and territorial planning mechanisms to ensure non-discrimination and resident participation in the application of zoning, land use and other development measures;

(h) Develop and continue investing in participatory and in situ upgrading programmes for informal settlements;

(i) Reduce the spatial segregation of asylum-seekers, refugees, migrants, persons experiencing homelessness, older persons, persons with disabilities and other marginalized groups in institutional settings through the provision of individual housing within communities and neighbourhoods with ambulatory social and health services when necessary;

(j) Counter economic and social trends to ensure that the financialization of housing and land use policies, and patterns of migration and displacement, do not result in concentrations of marginalized people in locations remote from services, employment opportunities, schooling, health care and other services, or in proximity to toxics or waste disposal sites;

(k) Prioritize mitigation and preparedness efforts for communities living in environmental risk zones, as well as recovery aid for communities affected by natural disasters.
