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

Written statement* submitted by International Harm Reduction Association (IHRA), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 February 2020]

* Issued as received, in the language(s) of submission only.



Obstacles to the enjoyment of the right to housing experienced by people who use drugs

Harm Reduction International welcomes the final report of the Special Rapporteur on the right to housing and applauds the Rapporteur's initiative of developing much-needed Guidelines on the implementation of the right to adequate housing.

We sincerely congratulate the Rapporteur's efforts, in the past five years', to reinforce the status of the right to adequate housing as a fundamental right – instrumental to the enjoyment of countless other rights, to hold states accountable for gross violations of their obligations, and for her attention to the most vulnerable and marginalised in society.

We welcome the clarification, in paragraph 33(1) of the Guidelines, that drug dependence should never be a reason for discrimination in accessing 'safe, secure and dignified emergency accommodation'. This is a fundamental acknowledgment, in light of the heightened vulnerability of people who use or otherwise engage with drugs to experiences of homelessness or insecure housing. The cause for such vulnerability is not drug use as such, but rather the stigma, discrimination, and marginalisation attached to it, often compounded by criminalisation.¹

In some cases, the exclusion of people who use drugs or engage in the drug market (such as those who manufacture, cultivate or deal drugs) - and especially those who were charged, convicted, or incarcerated for drug-related activities, from safe and secure housing is enshrined in domestic legislation and policy. In many jurisdictions, knowledge of drug use allows – and can even compel – either exclusion from housing, or eviction. For example, in the UK drug use and possession are discretionary grounds for eviction.²

Similarly, a drug-related conviction may be the basis for exclusion from public housing. This is the case in the USA, where restrictions are in place on housing assistance programs. Accordingly, applicants are screened for drug use (which we hold constitute an arbitrary - as unreasonable, disproportionate, and unnecessary interference with the right to privacy) and can be denied assistance – or be evicted – if they are found to be using drug or have a criminal history for drug-related activities (such as for possession of drugs). A 2013 review of bans on housing assistance for drug-related activities around the US found nine different categories of bans, some of which lasting for the entire lifetime of the person. Notably, some programs ban individuals for merely being in contact with the criminal justice system for drug-related activities, regardless of whether the person is eventually convicted, or not.³

Although the right to housing is subject to progressive realisation, states have an immediate obligation to refrain from interfering with the enjoyment of the right to housing; this also requires eliminating those laws and policies which limit unnecessarily the enjoyment of the right or are discriminatory.

Equally problematic is the exclusion from shelters or emergency housing on the basis of drug use, sex work, and/or alcohol use. These zero-tolerance approaches to drugs and fixed expectations around behaviour are not uncommon in housing services around the world, resulting in a shortage of services willing to house individuals who are not ready or willing to reduce or stop their drug use (including because their drug use is not problematic).

The above-mentioned measures are neither necessary nor proportionate, and hamper people who use drugs' right to an adequate standard of living – and ultimately their right to live in

¹ Harm Reduction International and International Network of People who Use Drugs, *Written comments for the Special Rapporteur on the right to adequate housing on the draft Guidelines for the implementation of the right to housing*, 18 November 2019, https://www.hri.global/files/2019/11/26/Written_comments_on_draft_Guidelines_for_the_implementation_of_the_right_to_adequate_housing_HRI_INPUD_2019.pdf

² Release, *Written Submission to the Labour Campaign for Drug Policy Reform*. On file with author

³ Curtis et al., 'Alcohol, Drug, and Criminal History Restrictions in Public Housing', *Cityscape: A Journal of Policy Development and Research*, Vol. 15(3) 2013, <https://www.huduser.gov/portal/periodicals/cityscape/vol15num3/ch2.pdf>

dignity. They also impact on their right to the highest attainable standard of health, pushing them towards unsafe drug-use behaviours which negatively impact on both individual and public health.

For example, a Coroner's report from British Columbia, Canada, found that of 175 deaths of individuals who were experiencing homelessness in 2016, 53% were the result of accidental drug/alcohol overdose.⁴

A recent study conducted in Scotland confirmed a correlation between drug injecting in public spaces and higher-risk injecting behaviours, and found public drug injecting to be a key risk factor in the HIV outbreak currently recorded in Glasgow.⁵ Similarly, a report recently published by the British government found that people who use drugs experiencing homelessness have a higher prevalence of HIV, hepatitis C, tuberculosis, and drug-related deaths. In 2017 drug poisoning, including overdose, made up 32% of the total number of deaths of homeless people in England and Wales (for comparison, drug poisoning accounts for less than 1% of all deaths in the general population).⁶

In addition to being unnecessary and discriminatory, the above-described restrictions also constitute an often insurmountable barrier for people who use drugs to address a situation of poverty or fragility they may find themselves in. As this Rapporteur has rightly noted, the right to housing is “integral to core human rights values such as dignity, equality, inclusion, wellbeing, security of the person and public participation” – and a safe and stable home is a necessary precondition for a safe and stable, healthy life. In contexts where a fixed residence is required in order to access healthcare services, employment opportunities, and/or social security, this arbitrary interference with the right to housing reverberates even more critically on the enjoyment of fundamental rights. In turn, it reinforces stigma and discrimination against people who use drugs, reinforcing a vicious cycle of marginalisation and enabling abuse.

In light of the above, we respectfully suggest that the next Special Rapporteur:

- In upcoming country visits, integrates an analysis of legislated and practical exclusion impacting the enjoyment of the right to housing of people who use and engage with drugs;
- In the dissemination and implementation of the Guidelines on the implementation of the right to housing, includes a specific focus on people who use and engage with drugs as a key population, and on drug use as a prohibited ground for discrimination.
- When assessing the protection and promotion of the right to housing for people who use or engage with drugs, pays specific attention to the interplay between discrimination based on engagement with drugs, and other grounds for discrimination – such as ethnic origin, gender, sexual identity and orientation.

⁴ Ministry of Public Safety and Solicitor General: British Columbia Coroner Service (21 March, 2019). 9 Reportable Deaths of Homeless Individuals: 2007-2016. Available at: <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/homeless.pdf>

⁵ Trayner et al., ‘Increased risk of HIV and other drug-related harms associated with injecting in public places: national bio-behavioural survey of people who inject drugs’, *International Journal of Drug Policy*, Vol. 77 (2020)

⁶ Office of National Statistics (20 December 2018). Deaths of homeless people in England and Wales: 2013 to 2017. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsofhomelesspeopleinenglandandwales/2013to2017>. For more details on drug use and related health risks, see World Health Organization (2008), *Policy Guidelines on Collaborative TB and HIV Services for Injecting and Other Drug Users: An Integrated Approach*, <https://www.ncbi.nlm.nih.gov/books/NBK321186/>