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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 Human Rights Advocates Inc., 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.

[3 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Tackling the Lasting Impacts of Discrimination By Focusing on Financialization, Sustainability, and Cultural Humility Within the Right to Housing

Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 11 of the International Covenant On Economic, Social and Cultural Rights (ICESCR) guarantee the right to adequate housing as a component of adequate standard of living. Article 2 in the ICESCR assures that this right shall be guaranteed without discrimination of any kind. Adequacy of housing is fundamental to the enjoyment of other human rights and focuses on legal security; availability of services, materials, facilities, and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. As such, this right is broader than having a roof over one's head, it focuses on human dignity and means having access to privacy, security, and peace.

When considering the lasting concerns of discrimination within the right, the issue of spatial segregation is pervasive. By allowing systems of inequity and exclusion to exist and go unchecked, states are not fulfilling their obligations to provide adequate housing. States must take passive and active steps to address the impacts that discrimination has on the adequacy of housing. By addressing the increasing concern of financialization, enhancing sustainable development, and increasing cultural humility, adequate housing can be more readily provided in a more equitable fashion to all.

Internal Accountability

The financialization and consumerism culture of housing confirms that the right has become an unaffordable commodity due in part to corporations and investors taking over the housing market to accumulate wealth. This in turn leads to spatial segregation of economic classes within cities and states. Because private actors, financial institutions and other corporate actors, are currently not obligated under international law, the responsibility is on states to respond to these concerns.

In the United States of America, there has been utilization of the judicial and legislative branch and the creation of housing finance agencies to respond. The passing of a Fair Housing Act (FHA) has criminalized discrimination based on race, color religion, sex, national origin, familial status, and/or disability within the housing market. In *City of Miami v. Bank of America and Wells Fargo*, the Supreme Court empowered cities to bring FHA claims of widespread discrimination on behalf of citizens against loaning corporations, expanding the power of the FHA. The United States of America government has additionally created the Federal Housing Finance Agency (FHFA) which oversees two major home mortgage companies, Fannie Mae and Freddie Mac, who were partially responsible for the huge wave of mortgage defaults in 2006-2007, prior to the 2008 housing/financial crisis. Since FHFA began overseeing them, there have been lower interest rates, ample access to housing loans for the middle class, and increased access to such loans for low income households. This is an example of how States can increase internal accountability on the corporate powers through regulation promoting fair housing.

Sustainable Development

As populations are resettled into urban areas due to increasing climate disasters, those areas are seeing larger environmental impacts. Housing must provide a reasonable quality of life and be sustainably built to respond to this.

In Viet Nam, there are concerns that the disconnect between the state and local powers along with privatization creates mismatched housing developments that don't incorporate sustainable development goals and are widely unaffordable. In response to the climate concerns, the government supported resettlement actions, but these resulted in loss of livelihoods and creation of slums as compensation was small and housing construction failed to keep up. Many more problems arise from private companies being relied on to construct affordable housing; corruption in housing contracts going to friends of government officials;

companies taking money but failing to build; and use of poor materials, lack of sunlight, and poor ventilation due to vague understanding of ‘sustainable development. As the state continues to try to problem solve, there needs to be balance in the rapid building and the quality of homes in terms of energy use, air quality, and resident health and safety. This can be done by considering the tropical passive designs that historically have been used and development of green building codes in all developments. By focusing on using sustainable building materials; holding housing developers liable; and ensuring that resettlement is connected with fair compensation, states such as Viet Nam, can appropriately respond to spatial segregation as a result of climate disasters.

Cultural Humility

Building sustainable and affordable housing will solve many crises, but doing so without cultural adequacy will not prevent spatial segregation from occurring based on cultural identities. Because ethnicity is often linked to socio-economic circumstances, economic and cultural segregation go hand in hand. States must respond to both at the same time for there to be adequate response in the right to housing.

In Ecuador, 11% of the poorest households identify as indigenous. To ensure that these indigenous groups are given autonomy and power over the decisions that affect them, Ecuador’s constitution grants political and administrative territorial based representation. Although this system has its flaws, it is beneficial for uplifting indigenous populations. Indigenous groups have also flexed their political power in advocating for changes in how oil extraction occurs on indigenous lands. Moreover, Ecuador was the first country to adopt the Optional Protocol to the International Covenant on Economic, Social and Cultural rights. This grants citizens the right to seek justice from the UN in regards to housing concerns. Ecuador’s method of giving political power and autonomy to indigenous peoples and culturally diverse populations is pertinent to preventing spatial discrimination by providing for deeper cultural humility.

Conclusion

As many states are rapidly increasing in population and urbanizing, the need to ensure that there is legislative, executive, administrative, budgetary and regulatory instruments addressing spatial segregation has increased exponentially. By working holistically to combat the main harms to the right to housing there can be more equitable provision of adequate housing for all.

Recommendations

Human Rights Advocates (“HRA”) urges the Human Rights Council to:

- Increase efforts to pass a comprehensive Business and Human Rights treaty;
- Urge states to prevent discrimination based on all protected groups under Article 2 of the ICESCR;
- Promote stronger state implementation of the New Urban Agenda and 2030 Agenda for Sustainable Development;
- Urge states to provide platforms for indigenous and culturally diverse parties to consult with, contribute to, and participate in decisions regarding housing solutions.

Universal declaration of human rights(A/RES/3/217 A); International Covenant On Economic, Social and Cultural Rights (A/RES/2200(XXI))

Supra note 1

CESCR General Comment No. 4: The Right to Adequate Housing (E/1992/23)

Id. ; Twenty years of promoting and protecting the right to adequate housing: taking stock and moving forward (A/HRC/47/43)

Discrimination in the context of housing (A/76/408)

Reports On Discrimination, Segregation And The Right To Adequate Housing: Questionnaire

Supra note 5; supra note 4

Miller, F. (2020). Exploring the consequences of climate-related displacement for just resilience in Viet Nam. *Urban Studies*, 57(7), 1570–1587. <https://doi.org/10.1177/0042098019830239>; Adequate housing as a component of the right to an adequate standard of living (A/HRC/RES/15/8)

Resolution adopted by the Human Rights Council on 19 June 2020 (A/HRC/RES/43/14); Financialization of Housing (A/HRC/34/51)

Id.

Guiding Principles On Business And Human Rights pgs. 13-15; A/HRC/47/43

Supra note 9

Discrimination in the sale or rental of housing and other prohibited practices 42 U.S.C.A. § 3604 (West) Bank of Am. Corp. v. City of Miami, Fla., 137 S. Ct. 1296, 1300-06 (2017).

Rappaport, J. (2020). What to Do about Fannie and Freddie: A Primer on Housing Finance Reform. *Econometric Reviews*, 5-29, 9-17.

Supra note 9

Miller, supra note 8

Supra note 4; Ahmed, I. & Sager, J. & Le, V. C. (2010). Sustainable Low-Income Urban Housing in Vietnam: Context and Strategies. *Open House International*. 35. 56-65. 10.1108/OHI-03-2010-B0007.

Id.; Ly, P., Birkeland, J.L., & Demirbilek, N. (2010). Towards sustainable housing for Vietnam.

Ahmed, supra note 18

Ly, P., et al. (2010).

Indigenous Peoples Right to Housing (HS/734/05E)

Id.

<https://www.amnesty.org/en/latest/news/2010/06/ecuador-first-ratify-new-un-mechanism-enforce-economic-social-and-cultural/>.

Supra note 5