

HOMELESSNESS AND HUMAN RIGHTS (A/HRC/31/54)

Summary of the Report of the Special Rapporteur on the right to adequate housing, Leilani Farha

Homelessness is an egregious violation of human rights occurring in all countries, threatening the health and life of the most marginalized. Homelessness is the unacceptable result of States failing to implement the right to adequate housing. It requires urgent and immediate human rights responses by the international community and by all States.

In her report to the Human Rights Council, the Special Rapporteur on adequate housing, examines how homelessness is caused by States' failure to respond both to individual circumstances and to a range of structural causes: abandoning the responsibility for social protection in the context of unprecedented urbanization, implementing laws and policies that discriminate against homeless people, failing to adequately regulate real estate markets, land distribution and private actors in keeping with human rights obligations.. She outlines a set of concrete human rights obligations that, if implemented by States, would effectively address homelessness. She proposes a bold global initiative to eliminate homelessness in keeping with target 11.1 of 2030 Agenda for Sustainable Development, which commits to ensuring access for all to adequate housing by 2030.

A three-dimensional human rights definition of homelessness

There are many debates as to who should be defined as homeless and why. Across the world, definitions of homelessness vary widely, depending on language, socio-economic conditions, cultural norms, groups affected and the purpose for which homelessness is being defined. The Special Rapporteur offers the international community a fresh take on the definition of homelessness, proposing one that is flexible and contextually based, and that recognizes experiences and understandings of homelessness among different groups and in diverse circumstances. The Special Rapporteur offers a three-dimensional approach anchored in human rights that undermines "moral" explanations of homelessness as personal failures and instead recognizes patterns of inequality that deny those who are homeless their rights:

- 1) The first dimension addresses the absence of home in terms of both its physical structure and its social aspects;**
- 2) The second dimension considers homelessness as a form of systemic discrimination and social exclusion, whereby "the homeless" become a social group subject to stigmatization;**
- 3) The third dimension recognizes homeless people as resilient in the struggle for survival and dignity and potential agents of change as rights holders.**

Absence of Home

Absence of home may include a range of experiences and deprivations, both physical and social. In some circumstances, absence of physical shelter may be the primary concern, in other contexts, lack of access to land may be equally critical. While some residents of informal settlements do not self identify as homeless but are rather struggling for upgrading, services and security of existing homes, for others who live in precarious situations, sometimes renting informally and subject to eviction at a moment's notice or in grossly inadequate shelter, informality is a form of homelessness. Intertwined with physical deprivations and lack of security is the loss of social connection — the feeling of “belonging nowhere.” For street connected children, homelessness may be experienced as a reliance on substitute social connections, established for survival on the street.

Discrimination, stigmatization and group identity

Homelessness is directly linked to systemic patterns of discrimination, and it disproportionately affects particular groups, including women, young people, children, indigenous peoples, people with disabilities, migrants and refugees, the working poor, and lesbian, gay, bisexual and transgender people, each in different ways, but with common structural causes. The report also identifies that homeless people also constitute a discreet social group, suffering discrimination, stigmatization, criminalization and social exclusion based on imputed characteristics. Homeless people are rendered voiceless and invisible, banished to the peripheries of cities and towns, out of sight. Their humanity and dignity are rarely considered in legislation, public policies and strategies.

The human rights framework to address homelessness

The common factor in virtually all structural causes of homelessness is government decision-making and policy that is inconsistent with human rights. From a human rights perspective, State obligations in relation to homelessness are well established and have been clearly articulated. These include the following immediate obligations of States:

- (a) to adopt and implement strategies to eliminate homelessness, with clear goals, targets and timelines;
- (b) to eliminate the practice of forced eviction, especially where it will lead to homelessness;
- (c) to combat and prohibit in law discrimination, stigma and negative stereotyping of homeless people, including by third parties;
- (d) to ensure access to legal and other remedies for violations of rights, including for the failure of States to take positive measures to address homelessness; and
- (e) to regulate third-party actors so that their actions are consistent with the elimination of homelessness and do not discriminate either directly or indirectly against homeless people.

It is of critical importance that courts and international human rights bodies engage more actively with the need for access to justice and protection of human rights of those who are homeless. Ensuring effective judicial remedies for the right to adequate

housing is an immediate obligation of States, since “there cannot be a right without a remedy to protect it”.¹

Metrics of homelessness and human rights accountability

States have an obligation to measure the extent of homelessness, disaggregated by gender, race, disability and other relevant characteristics, and to establish effective means of monitoring progress. However, there is also a need for global indicators. A number of challenges exist with regards to measuring homelessness, including the risk of excluding marginalized groups that are not ‘visibly’ homeless. The Rapporteur underlines the critical importance of qualitative evidence including for example, oral testimony, photographs, or videos. The focus of human rights-based measurement of homelessness should be on prevention and on addressing underlying causes, and qualitative information capturing actual experiences often reveals more about how to prevent or solve homelessness than do numbers alone.

Strategic responses to homelessness

The Rapporteur’s consultations suggest that while effective responses depend on particular circumstances, effective strategies must always be multi-pronged, engage a range of policies and programs, and address simultaneously social exclusion and housing deprivation. Most importantly, strategies must be led by stakeholders, combining social mobilization with legislative and policy reform. In addition, all levels of government should design and implement policies, laws and strategies to prevent homelessness. Access to justice and effective remedies are of critical importance as well in order to ensure the right to housing of the most vulnerable is protected. Failure to ensure effective remedies indicates that homelessness has neither been recognized nor addressed as a violation of human rights.

Key recommendations to local and national Governments:

- Commit to eliminating homelessness by 2030 or earlier in a manner that upholds international human rights and target 11.1 of the 2030 Agenda for Sustainable Development ;
- Develop and implement, on an immediate basis, rights-based strategies coordinated between different levels of government aimed at preventing and eliminating homelessness by addressing structural causes and long-term solutions;
- Develop more reliable measures of homelessness, inclusive of less visible forms of homelessness and its qualitative dimensions;
- Immediately review and repeal any and all laws, policies or measures that discriminate directly or indirectly against homeless people or criminalize, impose fines on or restrict homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces;
- Recognize homeless people as a protected group in all relevant domestic legal frameworks;
- Ensure access to hearings and effective remedies to homeless people for violations of their rights;
- Recommit to providing adequate social protection and ensuring access to affordable housing for marginalized and vulnerable groups;

¹ I.D.G. v Spain, Communication 2/2014

- Immediately halt any evictions that may result in homelessness; and
- Direct special attention to homelessness amongst indigenous peoples caused by displacement from land and resources and the destruction of cultural identity.

The report (A/HRC/31/54) is available in all UN languages at:
<http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>