



The Global Initiative

for Economic, Social and Cultural Rights

Civil Society Consultation: Right to Life and Right to Adequate Housing

To: Special Rapporteur on the right to adequate housing
From: Global Initiative for Economic, Social and Cultural Rights
Re: Civil Society Consultation: Right to Life and Right to Adequate Housing
Date: 25 May 2016

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) welcomes the Special Rapporteur's consultation on the link between the right to life and the right to adequate housing. The GI-ESCR provides the following input related to the Special Rapporteur's Question No. 4 on the obligation to ensure access to justice for violations of the right to life resulting from homelessness and inadequate housing and to ensure that governments address these violations with appropriate urgency and commitment.

The Human Rights Committee has provided some understanding of the interdependence and interrelatedness of the right to life and the right to adequate housing. The Committee affirmed in its General Comment No. 6, for instance, that "[t]he expression 'inherent right to life' cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics."

The Human Rights Committee built on this understanding in subsequent Concluding Observations and jurisprudence. The Human Rights Committee has clarified in Concluding Observations that the right to life requires that States adopt positive measures to address homelessness in circumstances where homelessness leads to serious health consequences and may even cause death.¹ It has recognized that measures which restrict "access to all basic and life-saving services such as food, health, electricity, water and sanitation" are contrary to the right to life and found that disconnections of or otherwise denying access to water supply and destruction of sanitation infrastructure can rise to a violation of the right to life.² Jurisprudence from the Human Rights Committee has also found that violations of the right to water in the context of adequate housing can rise to

¹ Human Rights Committee, Concluding Observations: Canada, UN Doc. CCPR/C/79/Add.105, (1999) at para 12.

² Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (2010); Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/4 (2014).

violations of the right to life. For instance, in *Liliana Assenova Naidenove et al. v. Bulgaria* the Committee adopted interim measures to ensure reconnection of water supplies that had been disconnected as a means to forcibly evict a Roma community.³

The Human Rights Committee has begun to demonstrate a proper understanding that the right to life can be violated by not only individual violations of the right to housing such as forced eviction, but also systemic violations of the right to housing such as homelessness and inadequate housing. This understanding is crucial as the lives and security of millions of rights holders rely on States not simply to refrain from actions which interfere with the right to life but also to fulfill substantive, programmatic obligations to protect and ensure the right to life. An approach to the right to life that neglects these programmatic obligations would deprive many of the most vulnerable groups, whose life and security depends on such measures, of the equal enjoyment of the right to life. Indeed, it is the most vulnerable groups and individuals who are most likely to have lives placed at risk by lack of housing or inadequate housing and the related lack of access to water, sanitation, health care, or food. Excluding the lives of members of the most vulnerable and marginalized groups from the scope of the protections and corresponding remedies afforded by the universal right to life would send an unacceptable message of exclusion and unequal consideration that is entirely incompatible with the paramount and universal nature of the guarantee of the right to life and the core values of the inherent worth and dignity of every person.

Consequently, access to justice, accountability and remedies must be available for both acute and individual violations as well as for chronic and systemic violations such as homelessness and lack of adequate housing as these systemic violations risk life and thus rise to actual or potential violations of the right to life. Access to justice, accountability and remedies must be available both for violations of the obligation to respect the right to life and the obligation to ensure the rights to life (e.g., encompassing obligations to protect and to fulfill).

Therefore, the Special Rapporteurs report should make clear to States, as well as international human right monitoring bodies including regional human rights mechanisms and UN treaty bodies, that inaction in the face of systemic violations of the right to life also constitutes a serious violation of the right to life. Victims of such violations must have unimpeded access to justice and more effective remedies under both domestic and international law.

Furthermore, in the context of systemic violations, an element of intent is not necessary to have accountability and remedies. Rather, access to justice should be seen as a means to equalize power dynamics to ensure that victims at risk of violation of the right to life on account of violations of the right to adequate housing can actively, meaningfully and freely participate in crafting remedies designed to prevent or end systemic violations of the right to adequate housing.

³ See, *Liliana Assenova Naidenova et al. v. Bulgaria*, Comm No. 2073/2011 (2011).

Suggested Recommendations

To States:

Clarify that the right to life imposes obligations to address systemic factors leading to violations of the right to life, and requires the adoption of strategies with clear goals, timelines, monitoring and accountability, participation of affected groups and access to legal remedies.

Clarify that violations of the right to life may result from either state action or inaction, may be intentional or may be unintended consequences of policies or programmes, may relate to failures to provide for minimum essential requirements of the right to adequate housing as well as from failures to implement comprehensive plans and strategies or to regulate non-State actors.

Ensure that the right to life is interpreted consistently with international human rights including the right to substantive equality and non-discrimination, with particular attention to the circumstances of women, people with disabilities, migrants, children, indigenous peoples, racial or ethnic minorities and other disadvantaged or marginalized groups.

Ensure that the right to life as defined above is fully justiciable within domestic legal systems and that available remedies include both negative and positive obligations and requirements of legislation, regulation and policies designed to fully implement the right to adequate housing, as well as related rights to food, clothing, health, water sanitation and other economic, social and cultural rights, so that they further the right to life.

To Treaty Bodies and Regional Human Rights Mechanisms:

Reaffirm the interdependence and indivisibility of the right to life with economic, social and cultural rights, recognizing that obligations under the right to life frequently overlap with obligations to realize rights to housing as well as related rights to food, clothing, health, water sanitation and other economic, social and cultural rights.

Clarify that the right to life imposes obligations to address systemic factors leading to violations of the right to life, and remedies to violations include requiring States to adopt strategies with clear goals, timelines, monitoring and accountability, participation of affected groups and access to legal remedies.

Clarify that violations of the right to life may result from either state action or inaction, may be intentional or may be unintended consequences of policies or programmes, may relate to failures to provide for minimum essential requirements of the right to adequate housing as well as from failures to implement comprehensive plans and strategies or to regulate non-State actors.

Ensure that the right to life is interpreted consistently with the right to substantive equality and non-discrimination, with particular attention to the circumstances of women, people with disabilities, migrants, children, indigenous peoples, racial or ethnic minorities and other disadvantaged or marginalize groups.

Clarify that obligations to ensure access to adequate housing, as well as to related rights to food, health care, water, sanitation and other requirements of life, dignity and security derive from the right to life itself and are not dependent on the status accorded economic, social and cultural rights under the domestic law of a State or other treaty or rights obligations.