**REPORTS ON DISCRIMINATION, SEGREGATION AND THE RIGHT TO ADEQUATE HOUSING**

QUESTIONNAIRE

**Background and Objective of the report**

The thematic reports of the Special Rapporteur on the right to adequate housing,
Mr. Balakrishnan Rajagopal, to the General Assembly in 2021 and to the Human Rights Council in 2021 will focus on the issue of discrimination in relation to the right to adequate housing, including the impact of spatial segregation in urban or rural-urban environments on the enjoyment of human rights.

Spatial segregation can be understood as the imposed or preferred separation of groups of people in a particular territory by lines of race, caste, ethnicity, language, religion or income status. Spatial, including residential segregation can have different forms depending on the territorial, cultural or historical context and is often characterized by forms of economic and social exclusion, inequity and spatial disparity in access to infrastructure, services and livelihood opportunities.

Discrimination is understood as any formal or substantive distinction, exclusion, restriction, preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination as to race, colour, sex, language, religion, national or social origin, political or other opinion, property, birth or other status - including disability, age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social status - which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights.[[1]](#footnote-1)

The main objectives of the two interrelated reports will be to identify contemporary and historical forms of discrimination and segregation that affect the right to adequate housing, to highlight good practices in the prevention of discrimination and segregation and to provide guidance to States on how they can ensure their human rights obligations in relation to non-discrimination and the right to adequate housing.

To inform his reports Mr. Rajagopal welcomes contributions from States, local and regional governments, national human rights institutions, civil society organizations, academics, UN agencies and other stakeholders.

The questionnaire is detailed to allow for comprehensive collection of information covering all aspects of the right to adequate housing. However, responding to only those questions on which the responding organization, institution or entity has information, or expertise is much appreciated.

**BASIC INFORMATION**

1. Name of Individual, Organization, Institution, Agency or State: «Kazakhstan Parliamentary Development Fund» Public Fund

Type of Entity\*

☐ National Government or federal governmental ministry/agency

☐ Inter-governmental organization or UN agency

☐ Local or regional government, agency, representative or mayor

☐ Association, tenant union or housing cooperative

☐ NGO network, umbrella organization

☒ Community-based NGO

☐ Academia

☐ Foundation

☐ National human rights organization, ombudsperson

☐ Real estate, urban planning or construction

☐ Real estate investor or investment fund

☐ Trade Union

☐ Other:

2. Categorization of your Work

Please select one or more responses, as appropriate.

☐Public administration

☒Advocacy

☐Funding

☒Legal Assistance

☒Networking

☒Policy

☒Research

☐Technical Assistance

☒Training

☐N/A

☐Other:

3. City/Town: Nur-Sultan

4. State/Province: Nur-Sultan city

5. Country (please indicate your region or “international” if focus the work of your organization covers multiple countries); Kazakhstan

6. Contact e-mail (will remain confidential) in case we have questions:

**HOUSING DISCRIMINATION**

7. What specific forms of de facto or legal discrimination or barriers towards equal enjoyment of the right to adequate housing do the following groups face in your country (please provide evidence with examples, studies, reports and relevant statistical information):

* People of African Descent, or Roma
* Racial, caste, ethnic, religious groups/minorities or other groups
* Migrants, foreigners, refugees, internally displaced persons
* Women, children or older persons
* Indigenous peoples
* Persons with disabilities
* LGBTQ persons
* Low income persons, including people living in poverty
* Residents of informal settlements; persons experiencing homelessness
* Other social groups, please specify

The laws[[2]](#footnote-2) of the Republic of Kazakhstan provide for housing to orphans and children left without parental care for use from the communal housing stock. However, these persons receive housing after a very long time[[3]](#footnote-3) or do not receive it at all[[4]](#footnote-4). The main reasons for the current problem are (1) the lack of statutory deadlines for receiving housing for orphans, (2) the lack of established age criteria for children up to which they must be provided with housing, (3) the lack of sufficient legal literacy among children or lack of access to qualified legal assistance, and (4) the lack of nationwide statistics on provision of housing for orphans.

The Code[[5]](#footnote-5) of the Republic of Kazakhstan stipulates that citizens have the right to receive a land plot with an area of ​​0.10 hectares for individual housing construction. However, land plots are not provided to citizens of Kazakhstan at all[[6]](#footnote-6). The official reason is the lack of funds to equip the territories with the necessary infrastructure[[7]](#footnote-7). Alternative options for equipping with infrastructure, including independently by recipients of land plots, are not considered by state bodies and are not put before the citizens. At the same time, land plots are allocated to wealthy citizens for elite construction.

8. Discrimination in housing can affect various dimensions of the right to adequate housing and other human rights. Could you provide more details regarding the specific areas in which housing discrimination is experienced? Below are examples of various forms of discrimination that can be experienced in relation to different dimensions of the right to adequate housing:

*Accessibility*

* Discrimination in relation to access to land, including water and natural resources essential for habitation;
* Discrimination in relation to housing for rental or for acquisition or in accessing public or social housing;
* Access to emergency and/or transitional housing after disaster, conflict related displacement or in case of homelessness, family or domestic violence;
* Accessibility of housing for persons with disabilities or older persons, including access to housing for independent living or to care homes;
* data collection or requirements to furnish certain certifications resulting in the exclusion of particular persons from accessing housing;

*Habitability*

* discrimination in relation to housing conditions, overcrowding or housing maintenance;
* Exposure to health risks within the home, including lack of ventilation, heating or insulation, exposure to fire or housing collapse risk, unhealthy building materials, or other unhealthy housing covered by the WHO Guidelines on housing and health;
* Exposure to other risks which render housing uninhabitable, including sexual or gender-based violence, interference with privacy and physical security in the home and neighbourhood;
* Discrimination in relation to housing renovation or permission of housing extension;

*Affordability*

* Discrimination in relation to access to public benefits related to housing;
* Lack of equal access to affordable housing;
* Discrimination in public and private housing financing;
* Discrimination related to housing and service costs, housing related fees, litigation or taxation;

*Security of tenure*

* Discrimination in relation to ownership or inheritance of housing and land and related natural resources including water including on the basis of a distinction between formal and informal tenure arrangements;
* Discrimination in relation to evictions, resettlement and compensation for loss or damage of housing, land or livelihoods;
* Differential treatment in land or title registration, permission of housing construction;

*Availability of services, materials, facilities and infrastructure*

* Discrimination in relation to access to work, schooling, health care or public benefits based on the residential address or related to a lack of an official address;
* Public transportation services and transportation costs;
* Provision of water, sanitation, energy, waste collection and other utility services; their quality or cost, including interruptions/blackouts including policies relating to disconnection from utility services;
* spatial disparities in access to health care, education, child care, cultural and recreational facilities;

*Location*

* Discrimination in relation to freedom of choice of the place of residency within the country, within a particular region or location;
* Discrimination based on place of residence or address, such as exclusion from invitation to job interviews or access to credit;
* Exposure to environmental health risks, such as external air quality, flooding, toxic ground exposure; noise; risk of landslides etc.;
* Living quality and physical security in the neighbourhood, including geographical disparities in policing and law enforcement;

*Cultural adequacy*

* Discrimination in relation to the recognition of culturally adequate dwellings as housing as well as equal access to public space;
* Prohibition of accessing, maintaining or constructing culturally adequate housing;
* Lack of recognition of mobile forms of residency.

The Code[[8]](#footnote-8) of the Republic of Kazakhstan enshrines a discriminatory norm that restricts access to justice in the court of last cassation instance for persons with low property position or the low amount of harm suffered. Thus, poor people are restricted from accessing legal remedies.

In the same Code[[9]](#footnote-9), the principle of collegiality while considering cases in the cassation instance is not followed. A preliminary judge issues refusals alone to consider applications by the cassation panel of judges. These refusals are not subject to appeal.

In Kazakhstan, consideration of court cases on the seizure of real estate without notification or involving the owners of the property in the proceedings are allowed. Higher courts leave these decisions of the courts in force[[10]](#footnote-10).

Persons of retirement age and persons living with young children receive compensation significantly below the market value of the seized property for state needs[[11]](#footnote-11).

Domestic violence victims living with HIV are prohibited from living in crisis centers. The legislation[[12]](#footnote-12) of Kazakhstan requires crisis centers to refuse to provide services if people have infectious diseases, which include HIV. Thus, victims of domestic violence living with HIV and their family members are discriminated against for temporary housing. A similar restriction applies for persons with disabilities living with HIV to stay in nursing homes. The legislation[[13]](#footnote-13) requires these organizations to refuse to provide special social services in medical and social institutions (organizations).

Centers for social adaptation and resocialization for persons in difficult life situations (shelters for homeless people with 24-hour residence for up to one year) accept persons for 30 days, after which they are forcibly transferred to a shelter in the city where the person had the last registration at the place of residence[[14]](#footnote-14). If there is no shelter in that city, the homeless person is denied placement.

In many cities of Kazakhstan, there is no access to city beaches, they are fenced off and access to them is possible for an additional fee[[15]](#footnote-15). At the same time, the Water Code[[16]](#footnote-16) explicitly prohibits restricting access to beaches.

9. Are there any particular current laws, policies or practices in your country, region or town/community that contribute to or exacerbate discrimination in relation to the right to adequate housing?

The compliance with the principle of collegiality of case consideration in the cassation instance is absent in Kazakhstan. The preliminary judge alone shall issue refusals to consider applications by the cassation panel of judges. These refusals are not subject to appeal. Also, in Kazakhstan, consideration of court cases on the seizure of real estate without notification and involving the owners of the property in the proceedings are allowed. Higher courts leave these court decisions in force[[17]](#footnote-17).

10. Can you explain exemptions in national law that allow (certain) public, private or religious housing providers to give preferential or exclusive access to housing to members of a particular group, for example based on membership, employment contract, public service, age, disability, civil status, sex, gender, religion, income or other criteria?

The Law[[18]](#footnote-18) provides for the housing from the state housing stock to civil servants, employees of budgetary organizations, military personnel, astronaut candidates, astronauts, employees of special state bodies and persons holding public elective positions. However, these categories are not socially vulnerable segments of the population[[19]](#footnote-19).

11. In case there may be differential treatment of particular groups in relation to housing, please explain why such treatment could be justifiable according to international human rights standards - for example positive measures benefiting a particular group to overcome systematic discrimination or disadvantage-or if it would amount to discrimination?

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**SPATIAL AND RESIDENTIAL SEGREGATION**

12. What forms of spatial segregation along racial, caste, ethnicity, religion, nationality, migration status, heritage, economic status/income or other social grounds can be observed in urban and urban-rural contexts in your country?

Click here to enter text.

13. What impacts do these forms of spatial and residential segregation have on affected communities? Please point to indicators such as rates of poverty, un-employment and under-employment; prevalence rates of malnutrition; disparities in access to services and facilities (such as access to schooling, health care or other public benefits); disparities in access to infrastructure (lack of and/or poor quality provision of water, sanitation, transportation, energy, waste collection and other utility services); rates of exposure to environmental health risks (poor air quality, flooding, toxic ground exposure, etc).

Click here to enter text.

14. Have any particular historical or current laws, policies or practices in your country, region or town/community caused or exacerbated segregation?

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15. In your view, what factors (current or historical) are the principal *drivers* of spatial and residential segregation in urban and urban-rural contexts in your country?

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16. Are there examples in your country of where spatial and residential clustering has been a result of voluntary choices of residence by members of particular groups?

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17. The preservation of cultural identity, the right to self-determination of indigenous peoples and the protection of minority rights are examples of grounds for which groups may choose to live separately. Can you comment on how these forms spatial/territorial separation are evidenced in your country, if these communities they are subject to discrimination and suffer adverse consequences from spatial segregation such as through disparities in access to services, infrastructure, living conditions, etc.?

Click here to enter text.

18. In your view, are certain forms of observed residential separation/voluntary clustering compatible with human rights law and if so why? (for example to protect rights of minorities or to respect the freedom of choice of individuals to decide with whom to live together).

Click here to enter text.

19. Are there any laws or policies requiring certain individuals (and their families) to live in particular housing provided to them or in a particular geographical area (e.g. asylum seekers, migrants, IDPs, refugees, ethnic, religious, linguistic or other minorities, indigenous peoples, persons with disabilities, public service and military personnel)?

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20. In your view, what are the principal *barriers* to diminishing spatial, including residential segregation?

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**MEASURES AND GOOD PRACTICES TO CURB DISCRIMINATION AND REDUCE SEGREGATION**

21. What laws, policies or measures exist at national or local level to prevent or prohibit discrimination in relation to the right to adequate housing?

Constitution[[20]](#footnote-20) of the Republic of Kazakhstan, article 14: “1. Everyone shall be equal before the law and court. 2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.”

22. Have your State, regional or local Government adopted any positive measures, such as measures of affirmative action, to reduce discrimination, segregation or structural inequality in relation to housing? To what extent have such initiatives been successful to address housing discrimination and segregation?

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23. Have any particular laws, policies or measures been implemented to limit or reduce residential segregation? To what extent have such policies raised human rights concerns?

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24. What is the role of the media, as well as other non- governmental organizations, of religious and governmental institutions, in fostering a climate that reduces or exacerbates discrimination in relation to housing and segregation?

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25. Which institutional mechanisms exist to report, redress and monitor cases of discrimination or segregation in relation to the right to adequate housing and how effective have they been to address discrimination?

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26. In your view, what are the principal barriers to seek justice for discrimination/segregation in relation to the right to adequate housing?

The Code[[21]](#footnote-21) of the Republic of Kazakhstan enshrines a discriminatory norm that restricts access to justice in the court of last cassation instance for persons with low property position or the low amount of harm suffered. Thus, poor people have limited access to legal remedies.

In the same Code[[22]](#footnote-22), the principle of collegiality in the consideration of cases in the cassation instance is not followed. The preliminary judge alone shall issue refusals to consider applications by the cassation panel of judges. These refusals are not subject to appeal.

In Kazakhstan, consideration of court cases on the seizure of real estate without notification and involving the owners of the property in the proceedings are allowed. Higher[[23]](#footnote-23) courts leave these court decisions in force.

27. Can you specify how individuals and groups subject to structural discrimination or experiencing segregation can submit complaints to administrative, non-judicial or judicial bodies to seek relief? Please share any leading cases that have been decided by your courts or other agencies in this respect.

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**DATA ON DISCRIMINATION IN HOUSING AND SPATIAL/RESIDENTIAL SEGREGATION**

28. Is any data on housing disparities, housing discrimination and spatial segregation collected and publicly available? If so where can it be accessed? Are there any practical or legal barriers to collect and share such information in your country?

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29. Can you kindly share any studies or surveys by local, regional or national Governments or by other institutions to understand better housing disparities, housing discrimination and spatial segregation and how it can be addressed (e.g. title and link, or kindly submit document).

Click here to enter text.

30. Can you provide information and statistics related to complaints related to housing discrimination, how they have been investigated and settled, and information on cases in which private or public actors have been compelled successfully to end such discrimination or been fined or sanctioned for non-compliance?

Click here to enter text.

1. See article 2.1 of International Covenant on Economic, Social and Cultural Rights and the related General Comment No. 20 of the Committee on Economic, Social and Cultural Rights. [↑](#footnote-ref-1)
2. See the Law of the Republic of Kazakhstan "On Housing Relations" dated April 16, 1997 with additions and amendments dated April 01, 2021, article 67. [↑](#footnote-ref-2)
3. Links: <https://www.zakon.kz/5006919-siroty-godami-ne-mogut-poluchit-zhile-v.html>; <https://rus.azattyq.org/a/kazakhstan-graduates-from-orphanages-demand-housing-they-are-entitled-to-by-law/30755835.html>; <https://24.kz/ru/news/social/item/368688-okolo-80-detej-sirot-ne-obespecheny-zhilem-v-kazakhstane>. [↑](#footnote-ref-3)
4. Links: <https://the-steppe.com/razvitie/pochemu-vypuskniki-detskih-domov-ostayutsya-bez-zhilya>; <https://www.sos-kazakhstan.kz/ru/page/analiz-zhilischnogo-zakonodatelstva>; <https://bala.stat.gov.kz/category/sotsialnaya-zaschita-detej/>. [↑](#footnote-ref-4)
5. See the Land Code of the Republic of Kazakhstan dated June 20, 2003 with additions and amendments dated January 2, 2021, article 50. [↑](#footnote-ref-5)
6. Links: <https://rus.azattyq-ruhy.kz/politics/22260-besplatnye-10-sotok-zemli-poluchat-li-ikh-kazakhstantsy>; <https://www.caravan.kz/gazeta/dlya-polucheniya-zakonnykh-10-sotok-almatincy-i-astanchane-dolzhny-zhdat-200-let-395310/>. [↑](#footnote-ref-6)
7. Links: <https://forbes.kz//process/property/10_sotok_kajdomu_kazahstantsu_pochemu_ne_vyidelyayut_zemlyu/>. [↑](#footnote-ref-7)
8. See the Civil Procedure Code of the Republic of Kazakhstan dated October 31, 2015 No. 377-V with additions and amendments dated March 20, 2021, Article 434. [↑](#footnote-ref-8)
9. See above. [↑](#footnote-ref-9)
10. See the Decision of the Yesil District Court of the city of Nur-Sultan dated 03.13.2018 in case No. 7140-17-00-2 / 1087 [↑](#footnote-ref-10)
11. See the Appellate ruling of the court of the city of Nur-Sultan dated 03.25.2016 in case No. 7199-16-00-2a / 417, Appellate ruling of the court of the city of Nur-Sultan dated 13.04.2017 in case No. 7599-17-00- 2a / 1875 [↑](#footnote-ref-11)
12. See Order of the Minister of Health and Social Development of the Republic of Kazakhstan dated December 21, 2016 No. 1079 "On approval of the standard for the provision of special social services to victims of domestic violence", chapter 2, paragraph 13, subparagraph 2. [↑](#footnote-ref-12)
13. See Order of the Minister of Labor and Social Protection of the Population of the Republic of Kazakhstan dated August 29, 2018 No. 379 "On Approval of the Standard for the Provision of Special Social Services to Victims of Domestic Violence", paragraphs 6, 13 and 23. [↑](#footnote-ref-13)
14. See Order of the Minister of Health and Social Development of the Republic of Kazakhstan dated March 26, 2015 No. 165 "On approval of standards for the provision of special social services in the field of social protection of the population", Appendix No. 4 "Standard for the provision of special social services in the field of social protection of the population in conditions of temporary stay" with additions and amendments dated December 29, 2020, paragraph 4. [↑](#footnote-ref-14)
15. Links: <https://www.youtube.com/watch?v=z6DsojWZODU&t=3s>;<https://www.youtube.com/watch?v=W--juyuDOts>;<https://www.youtube.com/watch?v=VNTxV90TRv8>. [↑](#footnote-ref-15)
16. Water Code of the Republic of Kazakhstan dated July 09, 2003 No. 481 with additions and amendments dated February 23, 2021, Articles 65 and 133 [↑](#footnote-ref-16)
17. See the Decision of the Yesil District Court of the city of Nur-Sultan dated 03.13.2018 in case No. 7140-17-00-2 / 1087. [↑](#footnote-ref-17)
18. Law of the Republic of Kazakhstan "On Housing Relations" dated April 16, 1997 with additions and amendments dated April 01, 2021, article 67. [↑](#footnote-ref-18)
19. Law of the Republic of Kazakhstan "On Housing Relations" dated April 16, 1997 with additions and amendments dated April 01, 2021, article 68. [↑](#footnote-ref-19)
20. See Constitution of the Republic of Kazakhstan, adopted at the republican referendum on August 30, 1995, with additions and amendments dated March 23, 2019. [↑](#footnote-ref-20)
21. Civil Procedure Code of the Republic of Kazakhstan dated October 31, 2015 No. 377-V with additions and amendments dated March 20, 2021, Article 434 [↑](#footnote-ref-21)
22. See above [↑](#footnote-ref-22)
23. See the Decision of the Yesil District Court of the city of Nur-Sultan dated 03.13.2018 in case No. 7140-17-00-2 / 1087 [↑](#footnote-ref-23)