**Housing discrimination and spatial segregation**

**PUBLIC CONSULTATION WITH CIVIL SOCIETY ORGANIZATIONS**

**organized by the
Special Rapporteur on the right to adequate housing**

**12 April 2021**

DRAFT SUMMARY REPORT

**INTRODUCTION**

On 12 April 2021, the Special Rapporteur on the right to adequate housing, Mr. Balakrishnan Rajagopal, held a public consultation with civil society organizations (CSO) to collect input for his forthcoming reports to the General Assembly in 2021 and the Human Rights Council in 2022 addressing discrimination and segregation in relation to the right to adequate housing. The event counted with the participation of 158 representatives of civil society organizations spanning countries from across the globe, including representatives from North and Latin America, Europe, South East Asia, the Middle East and North and Southern Africa.

The agenda began with opening remarks by the Special Rapporteur outlining the objectives of the reports and of the public consultation, followed by an open discussion with participants. The present document summarizes key input received and the major themes these contributions highlighted on issues being faced in local contexts regarding different dimensions of housing discrimination and segregation.

The Special Rapporteur thank the International Alliance of Inhabitants for their generous support with interpretation during the consultation, which was held in English, Spanish, Portuguese, French and Italian.

**OPENING REMARKS OF SPECIAL RAPPORTEUR MR. BALAKRISHNAN RAJAGOPAL**

After thanking representatives for their participation and underscoring the importance of public input and collaboration in the work of the Mandate, Mr. Rajagopal opened his remarks highlighting the urgency of examining housing discrimination and spatial segregation in the current context. While progress has been made on one hand with the formal recognition of discrimination and segregation, there remains a persistent legacy of discrimination on communities and countries across the world. Mr. Rajagopal pointed that new patterns of discrimination and segregation are entrenching divisions between communities and making it more difficult to make meaningful progress to towards the achievement of the right to adequate housing and other human rights. In particular, he underscored how alongside the rise of global movements for racial justice in the last decade, the climate of discrimination has become more burdensome in the last several years, with distinctive and undeniable discrimination against historically marginalized communities such as racial and ethnic minorities, indigenous communities, Roma, religious minorities, persons with disabilities and beyond and the impact of many official and non-official measures on these communities. Mr. Rajagopal emphasized the need to understand these impacts in more specificity to inform what can be done from a human rights point of view to counter contemporary forms of discrimination and segregation as it relates to the advancement of the right to adequate housing.

The Special Rapporteur outlined three broad goals for the consultation: (1) to understand the legacy of discrimination and segregation and how that legacy has continued to influence the achievement of the right to adequate housing as well as other associated human rights (including most economic and social rights such as access to water and sanitation, access to employment, livelihood opportunities and beyond); (2) to examine new and broad challenges emerging in the face of the increased and related impacts of the patterns of global capitalism, extractivism, climate change and climate disasters- to understand whether the burdens of those phenomena are equitably shared or some communities feel them more than others and why, and to see what can be done to address those at a structural level along with the enormity of the challenge we are living now with COVID 19 and its impact on the right to adequate housing for historically marginalized communities; (3) To examine what good examples members of civil society organizations wish to share of positive lessons, laws, policies that been advanced to address housing discrimination and segregation in local contexts and how these can inspire change in other parts of the world and help lay the foundation for new norms of international law.

**SUMMARY OF CONTRIBUTIONS FROM CIVIL SOCIETY GROUPS**

The consultation counted with input from a diverse set of civil society groups, both international networks whose work extends across geographical regions as well as groups focused in local country and city contexts. Themes emphasized across comments included: the role of state policies and private actors in driving segregation; the discriminatory nature of evictions and its impacts on segregation; acute forms of housing discrimination faced by LGTBQ, indigenous, Roma communities and other ethnic minorities; the impacts of the COVID 19 pandemic in deepening discrimination and inequality; the impact of segregation and discrimination on the intersectionality of human rights, particularly the right to housing and the right to water and sanitation; and, the need for innovative policies at a local level that have strong implementation mechanisms. Inputs are included below in these thematic groupings.

**Role of state policies and private actors in spatial segregation**

* Real estate developers and private companies are making a lot of profit off of land and are doing so in ways that accentuate gentrification and creating other pressures that are pushing low income people out of their homes. This is seen in New York City /**United States of America** and weak or limited government tools exist to counter these pressures of private market actors and to ensure the right to adequate housing.
* In **Denmark** new legislative proposals seek to expand a “ghetto package” under the purported justification of addressing segregation. This points to the importance of explaining what segregation is and is not and what lawful measures to address real segregation look like as compared with discriminatory measures that in fact reinforce systematic domination over a particular socially constructed and racialized group.
* The case of **Israel** was pointed out by several CSO representatives as a case of special importance, for the kind of design of spatial segregation and dispossession that it represents.
	+ since 1948 the state of Israel has established a series of policies and law that has transferred most public land to Zionist organizations, especially the Jewish National Fund. These organizations have acted over the years to confiscate land and control development, expanding “Jewish only” cities and towns- these entities own as much as 13% of the land of Israel and Palestinians are prevented from living there.
	+ A specific example of a mechanism of segregation are admission committees in small towns (approved by law) where candidates/potential residents can be rejected to live there on basis of social suitability, this mechanism is being used to discriminate against Palestinians.
	+ In Palestinian towns Master plans are not expanding which turn Palestinian towns into overcrowded and underdeveloped areas.
	+ In the southern area of Israel Palestinian unrecognized villages are under threat of being demolished and being replaced with Jewish only communities.
	+ The recent enactment two years ago of the Jewish Nation state law, which covers all historic Palestine and has implications for the control of Palestinian land, threatens further displacement of Palestinian people.
* Since 2017 **Uzbekistan** has faced major challenges around illegal demolitions in the context of state driven urban development policies. There is a lack of normative protections and guidelines for how these procedures of eviction happen, particularly in concern with compensation for property owners and tenants. Many tenants have been forcibly removed from their homes and their does not exist mechanisms for legal redress. A major part of the problem is the state construction code, which lays legal norms for the state seizure of public lands. These legal norms are outdated and courts need to set the limitations of evictions and demolitions and policies of resettlement. It is critical from a civil society perspective that state norms such as these follow international human rights obligations.
* In **Indonesia**, traditional indigenous settlements (Kampungs) are being excluded and segregated from formal development and planning, these processes are driven by national and local building and zoning laws. State policies have prioritized the leasing and transfer of state land to big developers, making it inaccessible to poorer communities. These policies are leading to and exacerbating gentrification and segregation.
* In **Italy** it was noted that the policies dealing with popular housing, which should guarantee the right to an adequate housing, are not developed and not well managed. Many the popular houses are slums which gather poor and marginalized families- these neighborhoods exacerbate poverty and marginalization for those who live there and make huge concentrations of very poor families. In the past decade a lot of public funds have been spent without revision of these impacts, “ghettoization” continues
* In **South Africa** it was noted that despite an enabling policy and legal framework, race and class are still key determinants of where people live and whether they are employed. The legacy of apartheid city planning remains clear in South African cities. A disproportionately white elite lives in relative comfort in well-located city cores, close to economic activity and social life while black South Africans are disproportionately living on urban peripheries in dense and poorly serviced settlements. Commercial developers generally invest in well-located areas and the government has been unable to effectively direct private investment- as the UNSR has noted now post-apartheid housing policy has tended to entrench peripheral development
* In **Bolivia** the extensive growth of the urban perimeter and the lack of planning, formalization and public intervention generates segregation and housing injustice. The poor location of housing also affects access to labor market opportunities and transportation. There is also a lack of an integral housing and tenant rights policy in the country. Current financing programs for housing are market orientated and attend the needs of only a fraction of the population that can be subject to credit. LGBTQ groups, women headed households, migrant groups, those with HIV-AIDS are excluded
* Several CSO representatives mentioned the importance of ensuring that UN entities themselves (such as UN Habitat) are not involved in supporting urban projects that violate ESCR rights including forced evictions, dispossession, land grabbing without reparation for affected communities

**The need for innovative policies at a local level that have strong implementation mechanisms**

* Innovations have come up during the pandemic that can be helpful in terms of spatial segregation and addressing the lack of stock of affordable housing. Interventions being tried in cities in Europe and North America include converting unused office buildings into housing, these are important to examine at a broader scale.
* In **Canada**, even though the human rights court broadly provides protections against discrimination, there is still a lot of discrimination being faced for historically marginalized populations, especially in housing which is sometimes overlooked. In 2019 Canada passed the National Housing Strategy Act, which speaks to looking at systemic challenges in relation to the right to adequate housing and includes the establishment of accountability mechanisms (including the creation of a Federal Housing Advocate). Financialization and its impacts on the right to housing is a huge issue in Canada and is something the Federal Housing Advocate should take to address the issues of discrimination and segregation.
* From a civil society perspective, it is seen that more systemic levels of progress in local policies happen when new instruments are advanced in collaboration with local and regional governments, particularly progressive municipalities. It is important to consider carefully and in detail about what these inspiring examples of policies should include, an example of this is the 2012 Access to Habitat Law in **Argentina**. These examples put forward the importance of several elements including: (1) concrete mechanisms for the implementation and reinforcement of what it means to advance the right to the city and right to housing; (2) the protection of the social function of housing and land and property; (3) the expansion of the democratic governance of city; (4) concrete mechanisms for more equitable redistribution of the costs and benefits of urbanization
* In **New York City** there are more than 700 hotels, 150 of those have permanently closed (during pandemic). Many of them are located in the center of the city- it is an opportunity to give homeless folks a ‘right to the city’. Converting those hotels into single occupancy rentals is an important measure to pursue. There is a policy in place that is prohibitive, uniform land use review procedure- a way to override that is through eminent domain. Eminent domain should be used to give reparations to people most in need- there are 60,000 people that sleep in New York shelters every night. These are ways to challenge the dominance real estate industry and financial institutions have on land and housing in the city.
* In **South Africa** mandatory inclusionary housing measures are being pursued in existing development corridors and any other areas where there is active urban land markets as a way to try to counter the persistence of spatial inequality

**The discriminatory nature of evictions and its impacts on segregation**

* More than 9,000 families were evicted in **Brazil** last year and most of them were people of color and traditional and indigenous people. This points to why it is important to think of discrimination and the impact of segregation from the evictions perspective, because this is a big issue in places like Brazil. There is no official data in the country on forced evictions, such disaggregated data is urgently needed to understand the impact of evictions from race, ethnicity and other perspectives.
* In **Lebanon** migrant worker and refugees are increasingly and disproportionately facing evictions in the context of the economic crisis, this in the context where land and housing is largely financialized and non-Lebanese have no civil rights in the country (these include Palestinian refugees since 1948 who cannot own land in Lebanon, Syrian refugees who are not even considered refugees in Lebanon, and migrant domestic workers whose presence in the country is governed by the modern slavery system: the Kafala system)
* It was reported that in **Argentina** a new discriminatory measure has been established by state authorities, specifically by the Ministry of Territorial Development and Habitat, which has established just over a year ago to advance access to housing. The state entity has emitted 2 resolutions which are discriminatory- categorizing separately those considered ‘formal’ and ‘informal’- and impacting what protections households have in face of forced evictions. It dictates that only households in “formal” rental schemes are subject to early warnings of threats of forced eviction- this comes in the wake of the government lifting protections that were in place during the pandemic against forced evictions. This is very problematic as in questions of access to justice and procedural questions- there has not been this distinction before the law or ‘formal/informal’ renters, it creates a new exclusionary and discriminatory category. It shows how double standards are being advanced around human rights. It was indicated that it would be important to train/capacitate public authorities on the international human rights standards and norms around the right to adequate housing and non-discrimination.

**Forms of housing discrimination faced by LGTBQ, indigenous people, poor people, children, Roma communities, other ethnic minorities and historically marginalized peoples**

* Transgender people in **Brazil** suffer sever discrimination in relation to the right to housing, this is compounded by the social and economic exclusion this population faces (for example no access to jobs). Many transgender people are homeless and overall the LGBTQ population faces deep discrimination in the access to housing, for example being charged more by landlords than other residents. This is something that needs to be dealt with because it affects directly the life expectancy of trans people. It was emphasized that issues of discrimination faced by trans and the LGBTQ population as a whole should be addressed in the report.
* In Rotterdam/ **Netherlands** discrimination based on income is effecting residents as affordable homes are being demolished to make way for more expensive homes. These policies have been approved by the local City Council under the rationale of realizing mixed income neighborhoods. Nevertheless, the new houses will not be affordable for low income residents and demolitions will commence before a decision has been made on appealing the termination of rent contracts. The Netherlands does not have in place needed legislation concerning discrimination based on income.
* LGBTQI+ youth around the world, particularly black, indigenous and youth of color are more likely to face homelessness and comprehensive data is lacking on these realities. The criminalization of LGBTQI+ identity in many parts of the world such as African nations, much of the Middle East and some areas of Southeast Asia represents a significant barrier to researching experiences of housing discrimination and homelessness among LGBTQI+ youth. In the global north lack of data funding and government support programs are common and place significant barriers to addressing homelessness among LGBTQ+ youth. In addition, it is important to examine the intersectionality of issues being faced by this population including the impacts of poverty, trauma, migration and refugee status.
* In **Colombia**, indigenous trans women have faced displacement and inadequate and unjust housing conditions, Intersecting form of discrimination need to be taken into account when it comes to housing discrimination and need to be substantially materialized in laws and policies to improve the housing condition of persons with intersecting identities. The Colombia constitution provides for a differentiated form of protection for indigenous communities but this can be problematic when there is discrimination within indigenous communities. The rental system is challenging for these women, as there are often barriers with language, lack of documentation and prejudiced attitudes. Furthermore, there is a lack of data about trans women and other indigenous trans women around the country. The housing needs of trans people is not being addressed by the state.
* From the **Republic of Moldova** representatives from the Roma community spoke to how the COVID 19 crisis has underscored the importance of International human rights standards for socially vulnerable populations. Nevertheless, before the COVID crisis it was indicate that the state has not respected UN recommendations concerning access to housing for socially vulnerable peoples. In 2014 an official request was made for social housing for Roma people in the city of Chisinau, and the city government has said there are no resources. Roma people are facing homelessness and inadequate housing conditions, particularly in face of COVID crisis. More enforcement is needed to ensure state’s respect international human rights standards and recommendations, particularly as it relates to housing and the rights of Roma people
* In **Europe**, diverse groups of persons that self identify as “Sinti”, “Manouche”, “Kale”, “Gitan”, “Roma”, « Yenish », etc, who traditionally live in caravans (an important part of their identity) are facing housing discriminations and spatial segregation. Families who want to live according to their traditional way of life can only live in authorized areas. Criminal Law and Urban regulations are used to prevent Travellers to settle outside of specific segregated « halting areas ». In **France**, there are only 1356 halting areas, generally situated as far away as possible from residential areas, most of them in unhealthy and polluted environment. Outside these halting areas, families are facing constant evictions (which are going on despite the pandemics). The current pattern is really worrying for these communities in **Europe**. New law proposals (in particular in the **UK and in France**) are currently studied by Parliaments. These bills treat these communities as « flows » to be managed, increase punishment for « illegal halting » including the possibility of seizing vehicles used as housing and of forcibly relocating their caravans, and facilitate eviction procedures. The law is used to segregate these groups and to criminalize their way of life.
* It was mentioned that this type of segregation against Roma communities also exists in **Serbia** and other European countries, and that the role of urban planning should be considered.
* **Children in street situations** are disproportionately likely to be from minority backgrounds, incl. disabled children, children from racial, religious or caste minorities, migrant children and LGBTQI+ children. When children are on the street, we note a clear link between their status as street-connected and an assumption of criminality that impacts their right to housing: street children and their families are often perceived as criminals and as such discriminated against - purely because of their connection to the street - in accessing their right to housing. These children and their families are frequently also subject to the demolition of the homes they do have, and the lack of any support or provision of alternative housing. Eg, a recent study carried out with partners in Bangladesh showed the 84% of children who had been evicted or had their home destroyed were offered no alternative accommodation or support of any kind.
* In **Argentina** four examples were named as important for understanding discrimination against poor and historically marginalized people: (1) the colonial inheritance of discrimination; many people who have lived generations in certain territories still do not have titles to their land, this exposes them to various situations such as displacement. There is an entire municipality inhabiting 150,000ha that is facing displacement as an example. (2) courts/judges are often unintentionally accomplices of processes of spatial segregation. An example of this is “La Boca” a touristic neighborhood of Buenos Aires, where more than 250 trials are in place for evictions, this was impacted by zoning changes the municipality put forth (where artist industry land/property use was prioritized causing real estate speculation); the judges just look at this trials case by case but it is important to realized that the decision around all those cases shapes processes of segregation (3) zones considered dangerous have been affected by lack of services- because they are labeled ‘dangerous zones’ these areas where poor people live have lack of some basic services like transportation (for example stopping night service) and internet services. (4) a problem in many ministries of housing in provinces of Argentina is that there are provisions in place that say households are not eligible for applying to social housing if they are in any legal procedures around “usurpation” (which is basically occupation of land in informal settlements)

**The impact of segregation and discrimination on the intersectionality of human rights, particularly the right to housing and the right to water and sanitation**

* The nexus of the right to housing and the right to water and sanitation is critical to examine in the context of discrimination and segregation, as the violation of one affects the other and this particularly true for informal settlements. Examples of this have been examined in informal settlements in **Kenya** and **South Africa**, and underscore how both de juris and de facto discrimination.
* In Brussels capital region in **Belgium**, civil society groups have noted the importance of access to water and energy to guarantee the right to adequate housing for disadvantaged groups. Groups like undocumented migrants are sometimes refused energy and water contracts in a discriminatory manner, and disconnection policies by public and private suppliers often have a disproportionate impact on socioeconomically disadvantaged groups.
* In **Haiti**, the intersection of housing rights and public safety is fundamental for working class neighborhoods. Many working-class neighborhoods face systematic violence from armed gangs (in complicity with state) - this has led to massive deaths, rapes, kidnappings and displacement of families. There is an urgent call for international solidarity.

**NEXT STEPS**

The UN Special Rapporteur strongly encourages groups to provide written submissions. More information on the related call for inputs with a questionnaire in [العربية](https://www.ohchr.org/Documents/Issues/Housing/Questionnaire-discrimination-housing_AR.docx) | [English](https://www.ohchr.org/Documents/Issues/Housing/Questionnaire-discrimination-housing_EN.docx) | [Français](https://www.ohchr.org/Documents/Issues/Housing/Questionnaire-discrimination-housing_FR.docx%22%20%5Ct%20%22_blank) | [Español](https://www.ohchr.org/Documents/Issues/Housing/Questionnaire-discrimination-housing_SP.docx%22%20%5Ct%20%22_blank). Deadline for submissions to inform his report to the General Assembly has been extended to the 14 of May 2021.

In addition to the public consultation with civil society organizations, the Special Rapporteur held a consultative session with current and former OHCHR Indigenous Peoples, Minority and People of African Decent Fellows organized by OHCHR. Mr. Rajagopal will also hold additional consultations with States, UN entities, local governments, human rights institutions, non-discriminatory bodies, lawyers and representatives of the judiciary on 30 April, 7 and 14 May 2021.

Written submissions received by Civil Society Organizations and other stakeholders are posted at: <https://www.ohchr.org/EN/Issues/Housing/Pages/CFI_Segregation.aspx>

The first report with key recommendations will be presented to the General Assembly in October 2021 and should become public available in all UN languages in late September 2021. The Second report to the UN Human Rights Council is expected to be published in early February 2022 and discussed at the Council end of February, early March 2022.