

20 years Special Rapporteur on the right to adequate housing:

Taking Stock and way forward

On the occasion of the 20 year-anniversary of the mandate of the Special Rapporteur on the right to adequate housing, the Special Rapporteur, Mr. Balakrishnan Rajagopal, invites States, national and local Governments, National Human Rights Institutions, civil society organisations, UN agencies and inter-governmental entities, and others, to share their views on the achievements of the mandate since its establishment and on future challenges.

The survey will assist the Special Rapporteur in drafting his next thematic report to the Human Rights Council, which will be devoted to taking stock and identifying future priorities.

This stock-taking exercise looks at all areas covered by the [scope of the mandate](#) and the various 'means of action' used by the Special Rapporteur during the past 20 years. The objective is to identify, in particular:

- I. main contributions of the Special Rapporteur to the promotion and realization of the right to adequate housing at local, country, regional or global level;
- II. core lessons learned;
- III. aspects that could be strengthened, for example, with respect to working methods and collaboration with UN bodies, States, and regional and national human rights mechanisms, civil society, the business sector and other stakeholders; and the
- IV. challenges and positive developments concerning the realization of the right to adequate housing in in your country, at regional or global level.

The report of the Special Rapporteur will be presented to the Human Rights Council in March 2021 and will be available in all official UN languages. Due to limited capacity for translation, we kindly request that you submit your answers, if possible, in English (preferred), Spanish or French.

The report will not identify the submitting institution, organization or State, except if indicated otherwise at the end of this questionnaire. Please feel free to limit responses to particular questions, areas or priorities that you consider important.

The Special Rapporteur would in particular welcome any impact stories related to the work of the mandate. For ease of reference a word version of the survey has also been made available, but preference is to complete the [survey online](#). In case you have difficulties accessing the online questionnaire, you can also return this document to srhousing@ohchr.org by **1 November 2020**.

You are also welcome to submit additional reports or documentation to the Special Rapporteur by writing to srhousing@ohchr.org.

Questions

Basic information

1. Name of Individual, Organization, Institution, or Agency

Habitat International Coalition

Type of Entity*

- National Government or federal governmental agency
- Inter-governmental organization or UN agency
- Local or regional government, agency, 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

N/A (focus of work is international)

4. State/Province

N/A (as above)

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

International

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

secretary.general@hic-net.org

Main contributions of the housing mandate

7. In your view, what are the main contributions and achievements that the UN Special Rapporteur on the right to adequate housing made for the protection and realization of the right to adequate housing during the last twenty years, alone or in collaboration with other stakeholders:

- at the international level?

- at the regional level?

- at the national or local level? (if reference is made to multiple States, please specify the countries concerned)

8. Please indicate any specific actions, working methods or approaches (*see list below for easy reference*) that, in your view, were particularly effective in promoting, protecting or realizing the right to adequate housing. Wherever possible, please include illustrations of their impact and explain how the work of the UN Special Rapporteur contributed to housing rights struggles on the ground. Please tell us your story.

- thematic reports submitted to the General Assembly and the Human Rights Council and their recommendations, including the collection of information, good practices, and events related to their development or dissemination ;
- principles and guidelines developed to assist with the implementation of the right to housing, such as the:
 - a. [Basic principles and guidelines on development-based evictions and displacement](#)
 - b. [Guiding Principles on security of tenure for the urban poor](#)
 - c. [Guidelines for the implementation of the right to adequate housing](#)
 - d. [Guidance notes on COVID-19 and the right to adequate housing](#)
- country visits and the recommendations formulated in the country visits reports;
- communications sent to States and other stakeholders;
- press statements, media interviews, op-eds, social media, or other awareness raising such as participation in documentary films;
- Bilateral or other diplomatic engagement and advice or assistance provided to States for policy or law-making;
- work with regional and local governments, civil society organizations, business, financial institutions or other stakeholders;
- participation and engagement with other UN programmes and agencies, in international or national events, conferences or processes;
- Training activities and/or publication of handbooks, tools for monitoring the right to adequate housing, law or policymaking

Enter here your response(s):

[Basic principles and guidelines on development-based evictions and displacement](#)

These types of documents have been very relevant to clarify the State's obligations in relation to complex issues that could escape the understanding of law operators at the national level. In Mexico, for example, HIC has used these guidelines on development-based evictions as the basis for a guideline document for Judges imposed by the Supreme Court of Justice of the Nation that, although not mandatory, has been used by progressive judges. Even so, it must be recognized that in Mexico the vast majority of authorities and judges do not even understand the concept of forced eviction and continue to believe that when an eviction has been decided by a judge, it automatically loses its forced character.

country visits and the recommendations formulated in the country visits reports;

Country visits attract a lot of attention even when it is not easy for authorities to fulfil the recommendations made. At times it has seemed to us that country visits serve above all for organizations to systematize cases and articulate around a common narrative. and continue to use the recommendations as part of long-term lobbying.

communications sent to States and other stakeholders;

Communications were especially useful for us when **Miloon Kothari** was Special Rapporteur since he:

1. Made a lot of effort not to fall into the bureaucracy of the UN (when information reaches Geneva it can stay for a long time on the table of a person who has a lot of work, little time and sometimes an overly formalistic vision)

2. In very relevant cases, he fought several times with the government about the same case, asking the petitioners how to answer each governmental response (this has happened, for example, with the La Parota Dam in Mexico for which an unofficial visit was even organized by Miloon and the then Rapporteur on the rights of indigenous peoples).

With **Leilani Farha**, the communication methodology has been simplified since instead of filling out a long document with a large number of questions, it was enough to send a substantiated text that her external assistant to the UN worked on and sent to Geneva, thus facilitating the process.

Bilateral or other diplomatic engagement and advice or assistance provided to States for policy or law-making;

This can be very useful. For example, in Mexico we have had experiences of this type of engagement, especially with the Water Rapporteur, but we would also have benefited from having communication and direct support when we proposed an article on forced evictions and a reform of the CIL code on income that was badly received by conservatives.

Training activities and/or publication of handbooks, tools for monitoring the right to adequate housing, law or policymaking

Very relevant, it would be of great support if trainings were organized for judges and decision makers.

Enhancing the impact of the housing mandate

9. Do you have any suggestions on how the UN Special Rapporteur could further improve his working methods, approach or collaboration in relation to:

- [thematic reports](#) submitted to the General Assembly and the Human Rights Council;
- Guidance and standard setting, such as the development of principles and guidelines for the implementation of the right to housing;
- [country visits](#), and potential follow-up activities to them and to their recommendations;
- [communications](#) sent to States and other stakeholders;
- [press statements](#); media interviews, op-eds, use of social media and other awareness raising activities;
- bilateral or other diplomatic meetings and advice or assistance provided to States for policy or law-making
- collaboration with other international, regional or national human rights mechanism, including amicus curiae submissions presented to national courts;
- participation and engagement with other UN bodies, in international processes or events;
- work with regional and local governments, civil society organization, business, financial institutions or other stakeholders;
- training activities and/or publication of handbooks, tools for monitoring the right to adequate housing or to assist law and policymaking;
- Other activities not listed above?

Enter here your response(s)

Suggestions in relation to:

- [country visits](#), and potential follow-up activities to them and to their recommendations;
Suggestion to synergise between the visits initiated by Rapporteur and others organised by civil society. Can the Special Rapporteur highlight the results of visits organised by civil society in the same manner, provided that they follow certain guidelines? An alternative could be to name a kind of "Rapporteur's ambassadors" to expand the impact of such visits. It would be good to keep the option of unofficial visits whenever possible (for example, when a Rapporteur is invited to an activity, take the opportunity to meet with local organizations, etc.)
- [communications](#) sent to States and other stakeholders;
The national offices of the United Nations High Commissioner for Human Rights could facilitate the development of communications. At times this is done very well even though the office is not usually very transparent in relation to responses received from governments and in general, there are fewer staff members dedicated to economic, social and cultural rights (ESCR) than to civil rights and the ESCR agenda is not prioritised.
- [press statements](#); media interviews, op-eds, use of social media and other awareness raising activities;
It is highly relevant to keep these in order to communicate with a wider audience in a more informal and pedagogically oriented way. Perhaps something like "meet your Rapporteur" could be implemented to show a wider public more about the Rapporteur's previous work, his concerns, etc. It is also important to continue using the infographics as did, for example, Raquel Rolnik for dissemination and educational purposes.
- collaboration with other international, regional or national human rights mechanism, including amicus curiae submissions presented to national courts;

It would be beneficial to consider the way that the Rapporteur can coordinate with actors seeking to hold companies accountable for human rights violations, needed in now more than ever.

Suggestions to pursue themes on:

(a) The links between **habitat and housing rights and the right to health** (in the pandemic context, habitat rights as representing the right to life, with examples of glaring violations and defiance of eviction moratoriums). The link between the right to health and housing is not only relevant in the COVID-19 context and recovery, but implies other health aspects too, including mental health affecting those (especially elders and children) in displacement.

(b) **Conflict, occupation and war-induced violations**, including those at grand scale, denying self-determination, and the challenges of human rights-based restitution and recovery/reconstruction within the reparations framework (A/RES/60/147) and the domestic and extraterritorial HRAH obligations in reconstruction efforts. Establish the meaning of reparations for gross violations (e.g., forced eviction).

c) The relationship between **property rights and the right to adequate housing**. Analyse this relationship by stating why civil law should not simply prevail over the right to adequate housing in the event of evictions, for example. References can be made to international and local decisions (such as the latest decisions of the ESCR Committee against Spain in matters of tenants and evictions, for example but also other cases decided by national courts) and a theoretical explanation about the fact that property is not absolute). Within this context, analyse the relation between tenant rights and the right to adequate housing.

(d) **Financialization**, as a function of rentier states. There is a necessity to link the Special Rapporteur mandate to the crisis of economic inequality and disparity. This includes engaging in the debate concerning the importance of a non-speculative post-COVID19 economy. In so doing, the Special Rapporteur would continue the work of Raquel Rolnik and Leilani Farha. It also includes developing normative content (why the market should not override housing rights) and hybrid (legal + scientific) arguments for the “human right to land.” In this sense, there is potential to bundle the habitat-related human rights as “habitat rights” as a norm-interpretation issue within the “hierarchy of international law.” See 14 (b) for more.

(e) **Social Function of Habitat and Housing**. When considering land and property rights, a cultural and social transformation is needed to support and enable the majority of landless people. Such a transformation is linked to the development of legal and policy mechanisms that not only protect security of tenure, but also make way for alternative models of housing provision, such as collective property, land trusts and cooperatives. See 14 (b) for more.

Suggestions to pursue actions on:

(f) Establishing a team supporting the Rapporteur outside the UN to be able to advance on more issues.

(g) **Promoting the ability of civil society to monitor habitat rights violations and endorse resulting documentation** that offers a multi-faceted account of the occurrences and nature of habitat rights violations, particularly in countries under occupation and/or experiencing protracted conflict. See the HIC - HLRN Violations Database, refer to 14 (a) below for more.

(h) **Pursuing more transversal work** with other Special Rapporteurs, UN bodies and agencies *in addition* to continued work with civil society. A suggested focus is collaboration with UN-Habitat, under a framework that is more policy and rights-based than technical (e.g. concerning evictions).

(i) **Establishing a civil society advisory group** to strengthen the Special Rapporteur mandate (see also comments on country visits). Over the years civil society petitioned Special Rapporteurs to make popular alternatives visible, which for different reasons has not yet been achieved. This is partly due to the limited resources available to Special Rapporteurs, partly due to fluctuating degrees of support and obstacles from the UN which can significantly slow down processes. A civil society advisory group would be less bound by bureaucracy and could help the Special Rapporteur identify emergencies and develop strategic actions on a more day to day basis. Over the years HIC's observation missions have become well known in cases of evictions and served to support the mandate of Special Rapporteurs.

Lessons learned

10. In your view, what are the main lessons learned that could be drawn from the first twenty years of the housing mandate in order to strengthen further the respect, protection and fulfilment of the right to adequate housing for all?

a) Value of a more-holistic understanding of the Human Right to Adequate Housing

The Human Right to Adequate Housing is, by name, not just a property right to be contested. A more-holistic understanding of, and approach to the Human Right to Adequate Housing (HRAH) invokes a formula of adequacy and its inextricable link to other rights. In this sense, it is important to denounce habitat rights violations *and* focus on what policies could enable housing provision (cooperatives, community land trusts, collaborative housing, social production of habitat and solidarity economies) and regulate the private sector to support that end. Judicial Systems should come to align with the corresponding State obligations and be better informed about the consequences (costs, losses and damages) of HRAH violations.

Directions for the future

11. What are the main obstacles, in your country, to the realization of the right to adequate housing for all? Please cover urban and rural dwellers and any groups that may be at risk to face inadequate housing conditions due to their gender, age, disability, ethnic origin, housing status (homelessness), social or national origin, migration status, sexual orientation, religion, political or other opinion, or other grounds.

Throughout the various regions in which HIC members work, shared obstacles include the link between **financialization (or big tenants) and evictions, land grabbing, housing and land violations** (especially forced evictions, as well as the criminalization of right to housing movements) which take place in the context of sustained **dismantling of the welfare state**, and which **most adversely affect women, inhabitants of precarious settlements and tenants**.

The right to housing is often understood as synonymous with the right to property. While very little support is given to other housing alternatives such as cooperatives, social production of habitat processes (or assisted self-construction of habitat) that often does not have sufficient or adequate support from the State, social rent, etc. Often there is no official data on housing and land problems (who holds ownership of the land, who owns how many homes, how many homes are sublet, etc. For example, in the census of Mexico it is asked only if the person has a second home but not how many second homes they have. This means that the collective imagination continues to think that the

majority of those who rent out property are small owners who could not bear any market regulation of rents since their livelihood depends on this small property). Similarly, this misconception affects the understanding of urban and rural evictions and their causes as well as dynamics leading to internal displacement in countries with a high degree of violence but without an internal war (like Mexico) or internal displacement related to climate issues. In many countries there are no housing alternatives for vulnerable evicted people. In addition the discrimination suffered by the LGBTQI+ population in terms of accessing housing rights remains insufficiently visible.

12. Have, in your view, certain regions, countries, situations or particular issues not received adequate attention? If so, please indicate how, this could be addressed, taken into consideration the limited resources available to the UN Special Rapporteur.

Rural areas have been relegated and not assigned significant attention. It is just as imperative to regulate private capital in rural areas as in urban areas, especially after natural disasters where investment of private capital is particularly prevalent in reconstruction, and in production processes with vulnerable rural people and their communities. In the pandemic, the situation of rural populations bears an added burden as food cultivation and animal husbandry are not considered.

13. What are, in your view, major developments occurring in your country and/or geographical region that may contribute to strengthening the respect, protection and fulfilment of the right to adequate housing? Are there ways, in your view, in which the Special Rapporteur on the right to adequate housing could support the unfolding of these positive developments?

In Chile, the population has recently voted to build a new constitution. It would be very relevant if the Rapporteur could contribute to the debate in terms of human rights related to habitat since many challenges remain in relation to this debate.

The 2016 Mexico City constitution contains a wide range of human rights including the right to the city, the right to housing and the prohibition of "illegal" evictions, the right to mobility, the right to water and the prohibition of its provision, etc . It also recognizes the social production of habitat and housing cooperatives, but it has not been possible to recognize the right to land or the recovery of surpluses. Today the great challenge has to do with the drafting of secondary legislation that does not always advance in a progressive way according to the spirit of the constitution. Perhaps the Rapporteur could support to organizations to follow on this debate. In the region there are also other relevant experiences such as the Law of Fair Access to Habitat of the province of Buenos Aires that deserves to be made visible and taken as an example, or the tenant legislation of Venezuela, among others.

Other issues

14. Please indicate here any other recommendation or issue that you would like to bring to the attention of the Special Rapporteur.

(a) Submission by HIC member: Humanitas Solidaris Cameroun

Concerning issues related to the Right to Housing for all, the results are mixed, since there has not been, in spite of all our struggles, a great evolution at the level of the State in terms of its role of providing populations, especially those that are fragile, with suitable, decent, viable and sustainable habitats. Due to special interests and the beautification of cities, we have seen an upsurge in forced

evictions. The health crisis linked to the corona virus has not cooled the authorities down in their rush to evict. For an improvement of this situation, Humanitas Solidaris proposes :

- **The Violation Database** developed by the Housing and Land Rights Network (HLRN) and Habitat International Coalition (HIC) to denounce violations and forced evictions **must be strongly and effectively supported and** accompanied by the United Nations system.
- **Accompany populations that are victims of evictions by training them** to enable them to defend, before, during and if possible, afterwards, their rights in the face of these devaluing operations
- **Support HIC member organisations** in their efforts to be present in all decision-making bodies, at both international and international level in order to defend the lack of adequate housing and the end of evictions.
- States must now be required to **combine the extent of adequate housing with the issues of the COVID-19 pandemic**
- States must be asked, in their policies related to the production of housing, to **involve civil society organisations more closely** in both the drafting of texts concerning problems related to land acquisition procedures as well as to the production of suitable accommodation for all.

(b) Submission by HIC member: UrbaMonde

Faced with the financialisation of housing, the social, economic, climate and economic crisis and the threat of evictions, it is imperative for inhabitants and communities to regain their role as active citizens in the realisation of their right to adequate housing and the Right to the City.

UrbaMonde supports the processes of community-led housing and participatory urban planning, through which inhabitants organise themselves collectively to build cities from the bottom up. Together, residents plan, finance, build, manage and improve housing, public spaces and neighbourhoods. With the right financial, technical, organisational and legal support, **collaborative housing** leads to urban spaces that are more affordable, more sustainable and inclusive, and that respond to the needs of local communities, making them more resilient and providing solutions to contemporary urban challenges as well as to the current health crisis of COVID-19.

In order for organised groups of inhabitants to be able to act and to be actors in the production and management of housing and cities, UrbaMonde highlights the following priorities:

Access to finance

It is essential to promote inclusive, socially responsible, citizen focused and ethical finance solutions so that low-income residents, excluded from the banking systems and traditional financial institutions, have access to sources of affordable finance. There is an urgent need to raise awareness among international cooperation agencies, international organisations, national governments and local authorities concerning existing solutions and tools that enable support and strengthen solidarity-based and alternative financial mechanisms that are implemented and managed by and for residents.

Access (secure tenure and control over) to land

It is essential to promote adequate land tenure policies and tools, and to pursue non-speculative measures to ensure security of tenure for residents and access to land. The increasing privatisation and commodification of urban and peri-urban land, the disengagement of the State and the promotion of access to private property have strengthened a distribution of land and have deepened social inequalities - to the disadvantage of women and low income populations who are deprived of adequate housing as put forward by the United Nations, but also in terms of access to broader landscapes and the city's heritage.

There is an urgent need to return the city to those who have been excluded, in order to create more inclusive, vibrant and sustainable public spaces and neighbourhoods. International cooperation agencies, international organisations, national and local governments need to be made aware of existing alternative solutions in terms of non-speculative land management, land regularisation of existing neighbourhoods or for the production of new homes.

Access to (availability, affordability, quantity and quality of) technical assistance

It is essential to promote the access of organised groups of residents to multidisciplinary and independent technical assistance that is adapted to their needs and centred upon the (already ratified state obligations and) social values of participation, democracy, solidarity and equality, as well as value for ecological and environmentally friendly practice.

Technical assistance is essential for building safe, more-sustainable housing that corresponds to the needs of the inhabitants and to the cultural and social practices of communities. It goes beyond the construction process and remains indispensable for the formation of autonomous and resilient groups of inhabitants - enabling them to build essential power to act through self-management and participatory and democratic processes, which are characteristics of the social production of habitat. International cooperation agencies, international organisations, national and local governments need to be sensitised to the importance of ensuring quality training for future housing and habitat professionals, based on the values of social production of habitat by putting communities at the heart of the housing planning and management process.

Access to information

In order for citizens to be protagonists in the processes of constructing the city, it is important to disseminate the methodologies developed by grassroots organisations so that they can know their neighbourhood, public policies and their rights, as well as innovative collaborative housing practices that can inspire and facilitate linkages between them. Exchanges between different national and local governments can also serve as an inspiration and assist in developing public policies that support collaborative and non-speculative housing projects.

Confidentiality

15. Please indicate: *

The information submitted can be made public on the OHCHR website or referred to in his official report indicating my institution/ organization and/or country.

The information submitted in this questionnaire should only be used in anonymous form to inform the forthcoming report of the Special Rapporteur.

Thank you for your feedback!

Please enter your responses in the [online survey](#) or submit this form back to: srhousing@ohchr.org before 1 November 2020.