

Monitoring housing rights

Developing a set of indicators to monitor the full and progressive
realisation of the human right to adequate housing

Background paper for the 2003 expert group meeting on housing rights monitoring

United Nations Housing Rights Programme
Working Paper No. 1

United Nations Human Settlements Programme (UN-HABITAT)
Office of the High Commissioner for Human Rights (OHCHR)

Nairobi, 2003

This report has been reproduced without formal editing by the United Nations.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Reference to names of firms and commercial products and processes does not imply their endorsement by the United Nations, and a failure to mention a particular firm, commercial product or process is not a sign of disapproval.

Excerpts from the text may be reproduced without authorisation, on condition that the source is indicated.

This report is available in electronic format only

UN-HABITAT (United Nations Human Settlements Programme) and
Office of the United Nations High Commissioner for Human Rights
Nairobi, 2003

Electronic versions of this and other reports on housing rights are available for download from the UNHRP web-site at <<http://www.unhabitat.org/unhrp/pub>>.

UN-HABITAT publications can be obtained from our Regional Offices or directly from:

UN-HABITAT

Information Services Section

PO Box 30030, Nairobi 00100, KENYA.

Fax: (254)-20-623477 or (624266/7)

e-mail: Habitat.Publications@unhabitat.org; Website: <http://www.unhabitat.org/>

Preface

“The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

International Covenant on Economic, Social and Cultural Rights, Article 11(1).

Despite the commitment of States to the full and progressive realization of the right to adequate housing expressed in the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – and the reaffirmation of this distinct right in the Habitat Agenda, with extensive elaboration on actions needed for its full and progressive realisation – an increasing number of people are being denied this basic components of the right to an adequate standard of living. In fact, among the economic, social and cultural rights referred to in these and other international treaties, the human right to adequate housing is among the most frequently violated. Furthermore, many people are constantly facing deteriorating housing conditions, and millions of people world-wide are currently threatened by planned forced evictions. In many countries, women are routinely deprived of their housing rights, and have no or limited access to ownership and/or inheritance of land, housing or other property. Moreover, the denial of housing rights to particular groups has often been used actively for political purposes, as recent cases of ethnic cleansing in the Balkans illustrate.

While the scale of the problem is vast, no uniform methodology exists to date, which allows for a detailed analysis of the status of housing rights world-wide. Inconsistencies in data collection methods, gaps in cross-national information, and the absence of general statistical models pertaining to housing rights inevitably result in a limited view of the status of housing rights as it exists in the world today. While other indicators of other economic, social and cultural rights have been well established and used within international circles for decades, housing rights have generally eluded this trend toward quantification. This leaves housing rights advocates and experts at a distinct disadvantage, working at best with piecemeal information, which does not form an adequate basis for cross-case comparison or longitudinal analysis.

Because of these and other considerations, it is past time for ‘housing rights’ as a concept to be translated into quantifiable and measurable indicators which would provide for a more detailed and comprehensive view of the status of housing rights both within particular countries, and within the world as a whole. Such information not only helps housing rights practitioners’ view housing rights issues with greater clarity, but would also provide an opportunity for diagnosing and addressing the major obstacles to the realisation of housing rights. As such, the use of indicators within the field of housing rights can, if applied in a precise and systematic manner, contribute to the realisation of these rights in a variety of ways. Indeed, one of the first steps toward addressing violations of housing rights is developing a strategy by which the status of these rights can be clearly defined and measured. Simply put, before attacking the problem of housing rights violations, one must know clearly what those problems are, how they are manifested, who they affect, and how these violations relate to other factors. As Mr. Danilo Türk, former United Nations Special Rapporteur on the Realisation of Economic, Social and Cultural Rights noted – without the availability of a measurement device based on some form of statistical data, there is little chance of obtaining an overall picture which shows the extent to which these rights are realised or violated.

Housing rights indicators, therefore, can provide one means of assessing the realisation of housing rights, both within a given country and within the world.

Additionally, housing rights indicators can help to reveal some of the difficulties associated with fulfilling housing rights within specific countries or regions, and may help pave the way toward the development of effective strategies aimed at promoting and protecting housing rights. For example, national-level variables pertaining to legal protection, financial expenditure, and status of unauthorised settlements all have the potential to influence the status of housing rights overall, in both positive and negative ways. Indicators can also reveal useful information about the extent to which housing rights are protected within States, suggest reasons why housing rights are or are not being enjoyed, and can reveal specific information about which groups are most likely to suffer housing rights violations. Similarly, indicators can provide relative yardsticks whereby countries can compare their own progress with that of other countries, especially countries at the same level of socio-economic development, as well as providing a mechanism by which to measure 'progressive realisation' within a single country over time.

As this report explains, and as housing rights experts well know, 'housing rights' cannot be thought of as a merely one-dimensional concept. Rather, housing rights are multi-faceted and involve multiple issues relating to, *inter alia*, security of tenure, adequacy of housing, equality before the law, and non-discrimination. Housing cannot be thought of as merely having four walls and a roof, but involves an intricate consideration of adequacy, health, security, and the law. As such, a richer understanding of housing rights necessitates that data be collected addressing many distinct components.

In particular, this report addresses the need to disaggregate housing rights data, so as to pay particular attention to the housing conditions of particularly marginalised groups, including women, children, the elderly, refugees, internally displaced persons, indigenous peoples, ethnic and other minorities, and people living in poverty. The set of housing rights indicators proposed in this report has been prepared with the understanding that the final set of indicators will be used to collect data at a disaggregated level, as requested by the Habitat Agenda. This important issue highlights the fact that in order for housing rights to be respected, they must be ensured for all.

The United Nations Human Settlements Programme (UN-HABITAT) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) believe that housing rights are fundamental human rights affecting not only the health and well being of every person, but also the human dignity of every person. Everyone, everywhere, has the right to an adequate, safe and secure home in which to live. The two agencies have thus established the United Nations Housing Rights Programme (UNHRP), as a joint initiative to assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda to ensure the full and progressive realisation of the right to adequate housing as provided for in international instruments.

This fifth report of the UNHRP has been prepared as the main background document for an expert group meeting to be convened in 2003. It is hoped that the deliberations of that meeting will facilitate the development of a global monitoring and evaluation system that can assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda, to "*the full and progressive realisation of the right to adequate housing as provided for in international instruments.*"

Acknowledgements

Scott Leckie and Mayra Gomez of the Centre on Housing Rights and Evictions (COHRE) prepared the draft that formed the basis for this report. Their collaboration and support is very much appreciated.

Selman Ergüden and Inge Jensen (both of UN-HABITAT) developed the research design and finalised the substantive content of the report. Several other UN-HABITAT staff members, from the Shelter Branch and the Urban Secretariat, have also provided valuable inputs and suggestions.

Rio Hada, Rajeev Malhotra and Cecilia Möller (of OHCHR) provided valuable insights, contributed to the research design and reviewed drafts throughout the research process. Miloon Kothari, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living appointed under the United Nations Commission on Human Rights, provided valuable advice and guidance.

Special thanks are due to the Government of Belgium for financial support, through their contribution to the Global Campaign for Secure Tenure. Without this financial contribution, this research project and the preparation of this report would not have been possible.

Contents

Preface	iii
Acknowledgements	v
Contents	vii
Executive summary	ix
I. Introduction	1
I.A. The right to adequate housing	1
I.B. Housing rights as defined under international law	2
I.C. The case for developing a global monitoring and evaluation system: a set of housing rights indicators.....	5
II. Quantitative housing rights indicators	9
II.A. Selecting indicators	9
II.B. Translating housing rights norms into quantifiable measures.....	11
II.C. Potential housing rights indicators	18
II.D. Additional concerns to be addressed.....	23
III. Developing a set of housing rights indicators	27
III.A. Choosing specific indicators: pros and cons.....	27
III.B. Clarifying operational definitions.....	38
III.C. Weights and measurements	39
IV. Modalities for data collection	41
IV.A. Data collection alternatives and considerations	41
IV.B. Integration into population and housing census	42
IV.C. The role of governmental organisations	43
IV.D. The role of non-governmental organisations.....	44
V. Housing rights indicators and states parties reporting obligations under the ICESCR	47
V.A. State party reporting obligations and procedures	47
V.B. Integrating the housing rights indicators into the reporting and monitoring processes	48
VI. Recommendations for the formulation of a set of housing rights indicators	51
VI.A. Proposed construction of the set of housing rights indicators.....	51
VI.B. Other important issues to be considered.....	56
VI.C. Recommendations for further development	58
Annex I. Suggested operational definitions	59
Annex II. General Comment No. 4 of the Committee on Economic, Social and Cultural Rights on Adequate Housing	65
Annex III. General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on Forced Eviction	71

List of diagrams

Diagram 1. Model for construction of a set of housing rights indicators.....	12
Diagram 2. The six main elements of the set of housing rights indicators	51
Diagram 3. Indicators suggested for housing rights element no. 1: ‘Housing adequacy’	52
Diagram 4. Indicators suggested for housing rights element no. 2: ‘Security of tenure/ scale and scope of forced evictions’	53
Diagram 5. Indicator suggested for housing rights element no. 3: ‘Scale and scope of homelessness’	54
Diagram 6. Indicators suggested for housing rights element no. 4: ‘Rights to non- discrimination and equality’	55
Diagram 7. Indicators suggested for housing rights element no. 5: ‘National legal protection’	55
Diagram 8. Indicators suggested for housing rights element no. 6: ‘Acceptance of international standards’	56

List of acronyms and special terms

COHRE	Centre on Housing Rights and Evictions
Committee	United Nations Committee on Economic, Social and Cultural Rights
Covenant	International Covenant on Economic, Social and Cultural Rights
General Comment No. 3	United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 3: The nature of States parties obligations (Art. 2, para. 1 of the Covenant)
General Comment No. 4	United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 4: The right to adequate housing (Art. 11 (1) of the Covenant)
General Comment No. 7	United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 7: The right to adequate housing (Art. 11 (1) of the Covenant): forced evictions
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
NGO	Non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights (until 1997 known as United Nations Centre for Human Rights)
Sub-Commission	United Nations Sub-Commission on the Promotion and Protection of Human Rights (until 1999 known as the United Nations Sub- Commission on Prevention of Discrimination and Protection of Minorities)
UNCHS (Habitat)	United Nations Centre for Human Settlements (since 1 January 2002 known as UN-HABITAT)
UN-HABITAT	United Nations Human Settlements Programme (until 31 December 2001 known as UNCHS (Habitat))
UNHRP	United Nations Housing Rights Programme

Executive summary

1. This report is divided into six chapters, each of which analyses a different aspect of the creation and implementation of a set of housing rights indicators. Chapter I provides a brief overview of the right to adequate housing under international law as well as a discussion regarding the need for developing a set of housing rights indicators.

2. Chapter II examines some of the elements or ‘concepts’, which can potentially be included in this approach, including a discussion of various potential indicators that may be used to measure each of these elements. Among the housing rights elements and sub-elements included in this chapter include: housing adequacy, including issues of habitability, accessibility, affordability, etc.; status of access to housing resources by vulnerable groups, etc.; scale and scope of homelessness; scale and scope of forced evictions and displacement; formal existence of national legislation protecting housing rights as well as practical implementation of national legislation, namely, the extent to which national legislation is applied, the presence of institutions related to housing rights, and the extent to which legislation can be called upon by disadvantaged and vulnerable groups in society, especially with regard to due process remedies; acceptance of international standards as evidenced by the ratification of international legal instruments; quality and adequacy of housing stock; and other issues relevant to housing rights such as security of tenure and status of informal settlements.

3. Building on the discussion presented in chapter II, chapter III outlines how to move from individual indicators to the construction of a systematic set of indicators. This chapter presents a detailed discussion on the pros and cons of particular indicators, and identifies 17 key indicators, which would be both methodologically practical and conceptually valid. Chapter III also clusters relevant indicators into conceptual categories so as to avoid statistical confounds and duplication, and includes a discussion of how it may be possible to eventually apply different weights to different indicators.

4. Chapter IV explores some of the more practical methodological aspects of the set of human rights indicators, namely the means by which data on the various indicators can be collected. The chapter examines how data should be aggregated and disaggregated, keeping in mind that the quality of the indicators must be preserved and kept consistent among the various states and regions of the world. It also explores the possibility for integrating housing rights indicators into existing instruments, such as the Population and Housing Census, in order to facilitate data collection, and explores some of the pros and cons of using alternative data sources.

5. Chapter V examines the usefulness of the set of housing rights indicators with respect to monitoring implementation of, and compliance with, international legal instruments, in particular the ICESCR. The chapter discusses how the information provided by the set of indicators can be used by States Parties to the ICESCR in meeting their reporting obligations, as well as by the United Nations Committee on Economic, Social and Cultural Rights itself in its examination of country reports.

6. Finally, chapter VI, based upon the considerations analysed in the previous sections, proposes the structure, elements and operation of a set of housing rights indicators to measure the progressive realisation of the right to adequate housing. The chapter also provides several diagrams, which are meant to help visually illustrate the proposed construction of the set of indicators.

7. The Annexes which supplement this report include a listing of suggested operational definitions to be used by the set of housing rights indicators (Annex I); General Comment No. 4 of the United Nations Committee on Economic, Social and Cultural Rights on the right to

adequate housing (Annex II.); and General Comments No. 7, of the same Committee, on forced evictions (Annex III).

I. Introduction

I.A. The right to adequate housing

At the beginning of the third millennium, some 1.2 billion people world-wide are living in 'income poverty,' with incomes of less than one dollar per day.¹ If other manifestations of poverty are included – such as 'housing poverty' – that number may in fact be much higher. This housing poverty is perhaps best exemplified by the sprawling slums and informal settlements in the cities and towns of developing countries. In some cities, more than two thirds of the population live in informal settlements, without security of tenure, and in conditions that can accurately be described as life- and health-threatening. The poorest among these 'housing poor' are the estimated 100 million homeless persons in the world.² Although specific data are unavailable to date, it is also generally accepted that an increasing proportion of the people living in housing poverty and homelessness are women and children.³ Moreover, throughout the world, millions more are forcibly evicted from their homes every year, or live with the uncertainty and fear that they may be forcibly evicted at any time without any opportunity for relocation, compensation or legal recourse. Access to adequate housing also impacts upon other human rights; without it, employment is difficult to secure and maintain, health is threatened, education is impeded, violence is more easily perpetrated, privacy is impaired and social relationships are frequently strained.

Yet, despite the centrality of housing in everyone's life, few human rights are violated as frequently as are housing rights. In every country throughout the world – in industrialised as well as in less developing countries – women, men and children are forced to live in appalling conditions, on pavements, near environmental hazards, in slums, parks, cars, cages, on rooftops, under bridges or are forced to 'squat' in abandoned buildings or on land owned by others. For those fortunate enough to have a home, while these places may provide some meagre protection from the elements, they all too frequently remain grossly inadequate, lacking security of tenure, potable water, proper drainage and sewage systems, proper sanitation, ventilation/heat, electricity and access to basic social services. For example, according to the United Nations Development Programme, nearly one billion of the world's citizens still lack access to adequate water supply and an estimated 2.4 billion have inadequate sanitation.⁴ All of these denials of housing rights are intensified in situations of armed conflict or in the face of natural disasters such as earthquakes and floods. In addition, already marginalised groups, including women, persons with disabilities, ethnic and racial minorities, the elderly, and of course, the poor, are placed at increased risk of housing rights violations.

While the international community has long recognised the right to adequate housing as a fundamental human right, and while several international instruments now exist which set forth and protect housing rights, much work remains. The often cited gap between law and practice - which affects so many human rights - is sadly alive and well when it comes to

1. World Bank (2000), World Development Report, Washington, Table 1.1.

2. UNCHS (Habitat) (1999), "Guidelines on practical aspects in the realisation of the human right to adequate housing, including the formulation of the United Nations Housing Rights Programme," Progress report of the Executive Director to the seventeenth session of the Commission on Human Settlements (HS/C/17/INF/6), Nairobi, paragraph 30. available on-line at: <http://www.unhabitat.org/programmes/housingrights/Other_UNHRP_documents.asp>.

3. UNCHS (Habitat) (2000), *Strategies to Combat Homelessness*, available on-line at: <<http://www.unhabitat.org/programmes/housingpolicy/publications.asp>>.

4. United Nations Development Programme (2001), "Human Development Report 2001," available on-line at: <<http://www.undp.org/hdr2001>>.

housing rights. However, the marked disparity between the very positive international legal norms recognising housing as a human right, on the one hand, and the massive scale of housing deprivation throughout the world on the other, must not be viewed as inevitable. Housing rights advocates all over the world, working at the grassroots, regional and international levels, working in partnership with local communities and national governments, are taking innovative steps to help secure the housing rights of the world's most vulnerable and marginalized people.

Yet, in order to design creative solutions to the problems of inadequate and insecure housing, advocates, experts and policy-makers and planners at national and local level must have access to reliable information which helps them to understand the causes, manifestations and consequences of violations of housing rights. It is critical, therefore, to have available information which is both specific enough to allow for a detailed understanding of the housing situation within a particular place, and general enough to paint a picture of the housing situation world-wide, both at a particular moment and over-time. Without this kind of basic information, housing rights can never be fully promoted and protected, because their realisation will never fully be understood. It is with these hopes in mind that the UNHRP supports the development of a set of housing rights indicators.

While the creation of a set of housing rights indicators may seem to some like more of a statistical chore than a human rights initiative, the UNHRP believes that housing rights cannot be adequately ensured without it. Rather than being merely an academic exercise, the creation of a set of housing rights indicators would provide those working to ensure the right to adequate housing for everyone, everywhere, with an invaluable tool towards realising that aim. Armed with information, policy makers, advocates and experts, including those serving on human rights monitoring bodies, are better prepared to evaluate the status of housing rights, and to make informed, detailed decisions or recommendations for improvements.

The development of this proposed set of housing rights indicators draws on outcomes of an expert group meeting on urban indicators organized by UN-HABITAT in Nairobi, Kenya from 28-30 November 2002. That meeting addressed the implementation of target 11 of the Millennium Development Goal 7 (ensure environmental sustainability) which specifically foresees improvement in the lives of 100 million slum dwellers by the year 2020. The meeting elaborated on the concepts and techniques of monitoring/measuring progress in relation to promoting security of tenure and existence and improvement of slums. The outcomes of that expert group meeting are incorporated as appropriate in this report, particularly with regard to indicators measuring the housing rights elements of housing adequacy and security of tenure/scale and scope of forced evictions.⁵

I.B. Housing rights as defined under international law

The right to adequate housing is enshrined in several international human rights instruments. Indeed, housing rights are not a new development within the human rights field, but rather have been long-regarded as essential to ensuring the well being and dignity of the human person. Housing rights are integral to the whole of human rights in general, and have been included in the most authoritative international statements regarding human rights. The Universal Declaration of Human Rights (1948), for example, stipulates in its Article 25 that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself [herself] and of his [her] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the

5. See also the report of the “Expert Group Meeting on Urban Indicators: Secure tenure, slums and global sample of cities”, UN-HABITAT, 2002.

event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his [her] control.”

In addition, the leading statement of international law relating to housing rights can be found in the ICESCR (1966), which states in its Article 11(1):

“The State parties to the ... [ICESCR] recognize the right of everyone to an adequate standard of living for himself [herself] and for his [her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

Housing rights are also enshrined and protected within other international human rights instruments, including –

- the International Convention on the Elimination of All Forms of Racial Discrimination (1965);⁶
- the Convention on the Elimination of All Forms of Discrimination Against Women (1979);⁷
- the Convention on the Rights of the Child (1989);⁸
- the Convention Relating to the Status of Refugees (1959);⁹ and
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).¹⁰

The right to adequate housing has also been carefully defined by the Committee on Economic, Social and Cultural Rights¹¹ in its General Comment No. 4 (please refer to Annex II.), interpreting the legal principle contained in Article 11(1) of the ICESCR. In its General Comment, the Committee puts forth the view that the right to adequate housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or with views defining shelter exclusively

6. Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination states, *“In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin to equality before the law, notably in the enjoyment of the following rights:...(e) in particular...(iii) the right to housing.”*

7. Article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that, *“State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right...(h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”*

8. Article 27(3) of the Convention on the Rights of the Child states that, *“State Parties in accordance with national conditions and within their means shall take appropriate measure to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programmes, particularly with regards to nutrition, clothing and housing.”*

9. Article 21 of the Convention Relating to the Status of Refugees specifically addresses the issue of housing and states that, *“As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.”*

10. This Convention has not yet entered into force. The full text is available on-line at: <http://www.unesco.org/human_rights/dcj.htm>.

11. This Committee is responsible for monitoring the fulfilment by States Parties of their obligations under the International Covenant on Economic, Social and Cultural Rights.

as a commodity.¹² Rather, the Committee notes that the right to adequate housing should be seen holistically, encompassing the right to live somewhere in security, peace and dignity. According to the Committee:

“This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the ... [ICESCR] is premised. Thus ‘the inherent dignity of the human person’ from which the rights in the Covenant are said to derive requires that the term ‘housing’ be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in Article 11(1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: ‘Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost’.”¹³

In its General Comment No. 4, the Committee goes on to note that the concept of ‘adequacy’ is particularly significant in relation to the right to housing since it serves to “underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute ‘adequate housing’ for the purposes of the ... [ICESCR].”¹⁴ In this regard, the Committee identified seven key criteria which comprise the right to adequate housing; namely, legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location and cultural adequacy (please refer to Annex II).

This conceptualisation of adequate housing provides a useful framework in which to situate the consideration of housing rights issues more generally. Yet, while international law clearly recognises the right to adequate housing, the realisation of this right, in practice, has continued to face significant challenges and obstacles. In 2001, the United Nations Commission on Human Rights adopted its resolution 2001/28, entitled “*Adequate housing as a component of the right to an adequate standard of living.*” In this resolution, the Commission called upon States to, *inter alia* –

“ ... give full effect to housing rights, including through domestic development policies at the appropriate level of government and with international assistance and cooperation, giving particular attention to the individuals, most often women and children, and communities living in extreme poverty, and to security of tenure.”¹⁵

To be sure, it is an issue which will require the dedicated and informed participation of different actors at the international, regional, national and local levels. As has been noted above, however, in order to remedy the existing problems vis-à-vis the right to adequate housing, it is essential to obtain a clear view of the situation at hand as it exists within countries, as it exists globally, and as it exists over time. It is only by obtaining a clear picture of the status of housing rights within the world that committed policy-makers, planners, advocates and experts can begin to isolate and identify problems, and devise appropriate and

12. United Nations Committee on Economic, Social and Cultural Rights, 13 December 1991, “General Comment 4: The Right to Adequate Housing (Art.11 (1)).”

13. Ibid.

14. Ibid.

15. United Nations Commission on Human Rights (2001), “Adequate housing as a component of the right to an adequate standard of living,” Commission on Human Rights resolution 2001/28.

effective solutions to these problems, and begin, as the Commission on Human Rights stated, to “*give full effect to housing rights.*”

This highlights the need to create a system by which housing rights can be quantified, measured and evaluated; i.e. the need to create a set of housing rights indicators. The use of such indicators could provide valuable information related to the key components of ‘housing rights’ and could assist policy-makers, planners, advocates and experts in their work to ensure housing rights in all parts of the world. Such an instrument could also potentially help governments learn in what areas they are doing well vis-à-vis the protection of housing rights, and where additional attention is needed. Indeed, the development of such a set of indicators should be seen as integral to the protection and promotion of housing rights within the world, as this approach would serve to raise the profile of housing rights issues and of the plight of the housing poor world-wide. This alone is worth the effort.

I.C. The case for developing a global monitoring and evaluation system: a set of housing rights indicators

The need for a quantitative method by which to measure implementation of and compliance with economic and social rights, including the right to adequate housing, has been apparent to those working in the field for several years. While adequate housing has not been specifically measured, other quantitative indicators and composite indices have proven extremely successful with respect to similar measurements of human rights and of the human condition, more generally. For instance, the Human Development Report, issued annually by the United Nations Development Programme, provides detailed quantitative data regarding the level of human development of particular countries, utilising specific information on human development indicators, including information on literacy, per capita GNP, and life expectancy. Similarly, the World Health Organization, the United Nations Children’s Fund, and the International Labour Organization each use composite indices to measure the current state of the global situation with regard to their respective mandates.

The use of indicators on the right to adequate housing has been proposed by the UNHRP in order to establish a global monitoring and evaluation system to record and disseminate information and data on housing rights developments. Such indicators, if properly constructed and utilised, would strengthen UN-HABITAT’s work substantially by providing clear information on the state of housing conditions around the world, and as such would also provide concrete and useful information to other advocates and experts outside of UN-HABITAT also engaged in housing rights work. In addition, such an instrument would provide an accessible and convenient tool by which international human rights monitoring bodies such as the United Nations Committee on Economic, Social and Cultural Rights, the United Nations Committee on the Elimination of Racial Discrimination and the United Nations Committee on the Elimination of All Forms of Discrimination against Women can measure state compliance with the respective Covenant and Conventions that they are entrusted with monitoring. The varied uses for the information made available by a set of housing rights indicators underscores its potential role as both a monitoring and evaluation mechanism.

To be constructed and utilised properly and effectively, however, the set of housing rights indicators must consider a number of factors. To be sure, the creation of indicators for international use is in and of itself a formidable challenge, which demands technical as well as substantive expertise. First and foremost, because ‘housing rights’ is a holistic and multi-faceted concept, this concept must first be broken down into its substantive, measurable components (accessibility, affordability, habitability, etc.) in order to be appropriately measured and evaluated. Yet, methodological factors must also be considered, including the

validity and reliability of the selected indicators, as well as the accessibility of data sources. Potentially elusive factors, such as the capacity to measure both a state's ability as well as its willingness to respect and fulfil housing rights, and the potential for measuring the 'progressive realisation' of the right to adequate housing, must also be integrated into the set of indicators. Certainly, practical limitations regarding data collection must be acknowledged, especially in lieu of limitations related to cross-national data collection; but, merely because data sources are imperfect does not mean that the initiative is not worthwhile. Quite to the contrary, as with the creation of all indices, limitations with respect to data only draws attention to the need to construct an ever more well-designed, practical, and useable instrument.

Keeping these and other conceptual and methodological concerns in mind, a carefully constructed set of housing rights indicators would provide valuable information regarding the status of housing rights within particular countries, within geographic regions, within the world as a whole, as well as over time. Part of the appeal of using such indicators is the clarity and relative straightforwardness, which such a mechanism allows for the simplified presentation of complex information. For example, it is generally much more accessible, to both the layperson and the expert, to describe the 'status of housing rights' within a particular country or at a specific time in easily identifiable, numerical terms, say on a scale of 1 to 5, rather than in a series of narrative reports addressing this or that particular aspect of housing rights. While certainly, some level of depth and detail is lost when relying solely on quantitative data, these costs are arguably offset by the breadth of the information, which can be collected. In addition, quantitative data on housing rights allow for the possibility of statistical analysis, which would not otherwise be possible. Quantitative data provide for the possibility of utilising both very specific disaggregated data, presenting data on specific social sectors and groups, as well as the use of aggregated data which could clearly present the status of housing rights as a whole, both within countries and within the world. Furthermore, quantifiable data also allows for both cross-national and longitudinal comparisons, allowing for a comparison of the relative position of a country with regard to housing vis-à-vis other countries in the region, other countries at a similar level of economic development, as well as vis-à-vis the same country at an earlier point in time.

Such statistical analyses would also create new possibilities for answering basic questions related to housing rights. Statistical manipulation of housing rights data could potentially show how different aspects of housing rights are in fact related to each other, for instance, how is the practice of forced eviction related to homelessness within a given country? How is government expenditure on housing related to the issue of affordability? How is the presence of national legislation recognising the right to adequate housing related to the prevalence of housing discrimination? With the availability and use of quantitative data, housing rights advocates are in a much better position to answer these and many other questions. Similarly, quantitative data could also be used to fill in the gaps of existing knowledge on how housing rights practices change (for the better or for the worse) as over-time quantitative data would highlight key trends, turning points and over-time trajectories with regard to housing at the national and international level.

The construction and implementation of a set of housing rights indicators opens new doors for housing rights advocacy as well. Not only will the information gathered be of interest to international actors involved in the global struggle for adequate housing, but this information will also help to answer practical questions with respect to how to make this right a reality in the lives of the many millions whose housing rights currently go unfulfilled. Now the work of designing and implementing such a set of indicators must begin, drawing upon the knowledge and expertise of housing rights experts, statisticians, social scientists, as well as inter-governmental, governmental and non-governmental organisations (NGOs) concerned

with housing rights issues. While the UNHRP is aware of the complex challenges that lay ahead, it is confident that the creation of a set of housing rights indicators will prove a valuable tool in the world-wide struggle for housing rights. The UNHRP hopes that this report can serve as a baseline for such a discussion, proposing ideas for this approach, flagging areas of concerns, raising questions and contributing some thoughts for future reflection. It is hoped also that this document will facilitate the process of constructing and refining a set of indicators which will be the tool for developing a global monitoring and evaluation system to measure progress in the realisation of housing rights.

II. Quantitative housing rights indicators

II.A. Selecting indicators¹

In creating a set of housing rights indicators, it is important to identify the particular elements, which comprise the construct being measured, in this case ‘housing rights.’ Working from those elements, it then becomes possible to identify different ‘indicators,’ or the quantifiable measures, which may be used to collect data with respect to the particular element in question. In this way, indicators serve to specify the status of a particular phenomenon by reporting information on some of its key aspects. Said another way, indicators provide alternative ways to capture, quantify and report specific information related to the various elements, or core components, of housing rights. For example, one element of ‘housing rights’ is ‘housing adequacy,’ which in part pertains to, for instance, the habitability of one’s home. Habitability includes “*adequate space and [protection] ... from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.*”² One potential ‘indicator’ for housing adequacy, therefore, might be the average number of rooms per dwelling, as this measure arguably addresses the notion of ‘adequate space’ implicit in the sub-element ‘habitability.’ Yet, habitability is only one aspect of ‘housing adequacy.’ Other sub-elements may also include accessibility and affordability, among others. Therefore, in order to have a robust measure of the element ‘housing adequacy,’ it would be important to include indicators, which present information on all of the different aspects that make up that element.

In many cases it is desirable to have more than one indicator used to measure any given element, especially if that element is particularly complex and multi-faceted, as is the case with the concept of ‘housing adequacy.’ Ideally, if using multiple indicators, indicators for each element should be highly or significantly correlated with one another, ensuring that they are in fact measuring the same concept. Once the raw data on each indicator has been collected, this data can then, in turn, be appropriately weighted and translated into an overall number, which defines the status of the given element, in this case ‘housing adequacy.’ Once this information has been collected for each element (housing adequacy, scale and scope of forced eviction, scale and scope of homelessness, etc.), these data, in turn, are thereafter similarly weighted and translated into a number which defines the general status of housing rights overall.

Choosing indicators, however, is a delicate task. The criteria used in the selection of indicators are extremely important, as the overall utility of a particular indicator will depend on whether it is a valid measure of the element, which it is attempting to quantify. Indicators must be chosen carefully, and must meet with the basic statistical requirements of validity and reliability. The notion of validity has two related aspects: statistical validity and conceptual validity. Statistical validity implies that, methodologically, the set of indicators is constructed in a balanced and appropriate manner, while conceptual validity signifies that the theoretical assumptions made in selecting the indicators are themselves logical and sound so that the indicators actually measure what they claim to measure. Furthermore, not only must an indicator be conceptually valid, it must also be conceptually significant, meaning that the indicator pertains to a conceptually significant aspect or element of housing (i.e., addressing the ‘core content’ of housing rights) rather than an incidental or unimportant aspect. In contrast to

1. Please refer to United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, “Realisation of Economic, Social and Cultural Rights: Progress report prepared by Mr. Danilo Türk, Special Rapporteur,” UN Doc. E/CN.4/Sub.2/1990/19, for more information regarding indicators.

2. United Nations Committee on Economic, Social and Cultural Rights, 13 December 1991, “General Comment 4: The right to Adequate Housing (Art.11 (1)).”

these validity requirements, an indicator must also satisfy the requirement of reliability. Reliability implies that if measured repeatedly, an indicator will yield consistent results.

Other considerations must also be taken into account when attempting to identify potential indicators. Not the least of these concerns is the availability of data. If quantifiable data cannot be collected with regard to a particular indicator, that measurement has no practical utility within the framework of the set of indicators. As such, in identifying the individual indicators, it is important to keep in mind whether a sufficient number of countries, developing as well as developed, have readily available data, or access to data, pertaining to the indicator in question, or, alternatively, data from which the indicator can be constructed or approximated.

Likewise, because the construction of a set of housing rights indicators implies the need to collect similar data within various countries, the issue of comparability of indicators is significant. Comparability signifies that the specific housing characteristics measured by the set of indicators must be consistent regardless of place, and can therefore be utilised across different countries and regions of the world. For example, if percentage of households with legal title to their homes is to be used as an indicator of 'security of tenure' (another potential element of 'housing rights'), it must be certain that 'legal title' can be measured in a consistent way from country to country. Certainly, the issue of comparability may be a more difficult question to address with some indicators than it would be with other indicators. Yet, for the comparability requirement to be satisfied, an indicator must be operationally defined in the same way or similar way across cases, and must be used to measure the same conceptual element of housing rights as manifest in different countries.

Similarly, the issue of comparability also raises questions pertaining to the potential for varying quality of data collected across countries. Ideally, in order for an indicator to be its most useful, it must produce data, which is consistent, complete and otherwise reliable. Large data gaps or inconsistent data resulting from a lack of available information related to the selected indicator compromises the value of the set of indicators as a whole. As such, it is very important to construct indicators in such a way as to make them consistent with the basic kinds of housing information, which all countries can potentially gather and report.

Indicators must be able to relate in a particular way to the element which they are meant to access, and must accurately illustrate variation within the factual situation vis-à-vis the particular element which they are intended to measure. This is known as an indicator's discriminative power, namely whether an indicator can adequately assess *different levels* of, for example, 'habitability' or 'security of tenure,' and furthermore, whether the indicator in question is related to other indicators of the same concept. For example, if 'average number of rooms per household' and 'age of dwelling stock' are used as two indicators of 'habitability,' these indicators must be able to successfully distinguish between different levels of habitability and should also, ideally, be correlated with one another.

The question of statistical correlation will need to be more thoroughly addressed once the set of indicators begins its testing phase, so as to appropriately cluster and streamline indicators. For the time being, however, let it simply be noted that having different indicators for the same concept correlate significantly with each other helps to show that the indicators are in fact measuring the same concept. Alternatively, it is not desirable to have indicators representing different concepts be significantly correlated, as this may point to a methodological flaw in the model whereby a given indicator actually does not measure the specific element it claims to measure. These concerns have been articulated as referring to the 'balance' of the indicators, or as 'avoidance of duplication.' While these are technical issues, which are not addressed at great length in this report, they should be considered in detail during follow-up discussions and consultations with statistical experts.

For now, let it suffice to say that indicators must be chosen with great care and with an awareness of the different requirements, which they must satisfy. While indicators are not necessarily designed, nor meant to provide completely comprehensive information with regard to a particular housing rights element, if they are well constructed, they can provide very useful information which helps to illuminate the overall housing rights situation of a particular place. Furthermore, indicators do on their own provide interesting and useful information, which if disaggregated, can also show disparities related to gender, race and ethnicity, age and income among other variables. This ability to move from the very general to the very specific testifies to the uniqueness and value of the approach, providing a range of useful information to policy-makers, planners, housing rights experts and advocates engaged in the housing rights struggle at every level.

With this discussion in mind, it is appropriate to move on to a more detailed look at potential indicators, which may be used as tools for the monitoring and evaluation system.

II.B. Translating housing rights norms into quantifiable measures

The first step in constructing a set of housing rights indicators is to answer the question: What will be measured? To answer this question, it is necessary to first specify the particular elements, which make up the housing rights. General Comment No. 4 (described in section II.B above) offers a good place from which to begin consideration of the different elements of housing rights. Working backwards from the notion of ‘housing rights’ in this way allows one to think more systematically about the central conceptual elements involved in comprising ‘housing rights,’ and from there, one can move into a more detailed account of the types of indicators which may be used to collect data related to each of these elements (please refer to diagram 1 below). Because the fundamental concern of the set of indicators is to represent the ‘status of housing rights’ in quantitative terms, that is, in terms of numbers, one must attempt to simultaneously address *what can be quantitatively measured* vis-à-vis housing rights, and *what would be most useful* to measure. Not all factors relevant to housing rights can be numerically coded in a way that upholds the integrity and detail of the original data, and not all-quantifiable factors are appropriate for inclusion within the set of indicators.

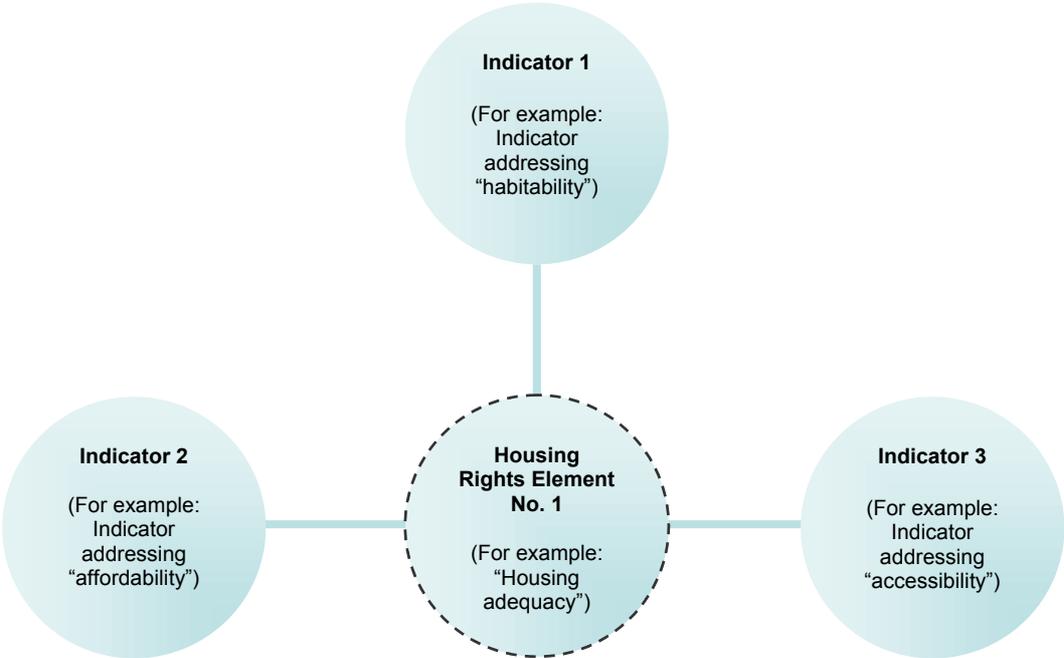
The following discussion is meant to be largely theoretically driven, rather than methodological in nature, and is meant to illuminate the various components, or ‘core content’ of what is meant by ‘housing rights.’ Therefore, it should be noted that the discussions, which follow in this section, are meant to provide a conceptual overview of the fundamental categories of measurement, which should ultimately be included in a set of housing rights indicators. They are not meant to evaluate in any detail the methodological task of incorporating these many components into a functioning statistical model. Rather, these more technical methodological considerations are explored in greater detail in chapters III and VI of this report.

In breaking down the notion of ‘housing rights’ into its substantive components, there are several resources from which to draw. In addition to General Comment No. 4, other authoritative interpretations of housing rights are available, including General Comment No. 7, which addresses the practice of forced eviction. Yet, some elements may also address general principles of international human rights law, including ‘progressive realisation,’ ‘non-discrimination,’ and other such issues. Similarly, some of the elements of ‘housing rights’ may simply reflect issues which housing rights experts in the field widely regard as being indicative of the housing rights situation overall, such as with the issue of homelessness.

It deserves mention that while the list presented below is meant to be as comprehensive as possible, it does not rule out the potential for other elements to be considered and included later. Rather, the six elements outlined below provide something of a conceptual overview of

housing rights, and do not claim to be exhaustive. As discussed later in this report, some of these elements overlap, and some may not be easily quantifiable. Yet, this exercise of identifying the key elements of housing rights helps prepare the ground for the construction of the set of indicators by illustrating the landscape of housing rights as seen from a conceptual point of view. With this understanding, some of the elements of housing rights that could potentially be included in the set of housing rights indicators are presented in the sections below.

Diagram 1. Model for construction of a set of housing rights indicators



Housing rights element no. 1: Housing adequacy

The right to adequate housing is enshrined in Article 25(1) of the Universal Declaration of Human Rights and Article 11(1) of the ICESCR. The General Comment No. 4 of the Committee on Economic, Social and Cultural Rights (see Annex II) identifies seven components of adequate housing and serves as the basis for the conceptualisation of housing adequacy presented below. In order to collect data on the overall level of housing adequacy, therefore, it would be possible to include information on some or all of the following sub-components:

a. Legal security of tenure

Legal security of tenure describes an agreement, governed by a legal framework or legislative regime protecting individuals or groups regarding use of land or residential property generally to such an extent that those with security of tenure are protected against arbitrary forced eviction or expropriation of property. Secure tenure is essential to developing sustainable cities, human dignity and urban development, and is an essential element of housing rights, as it is fundamentally related to the long-term security of one’s home. The security derives from the fact that the right of access to and use of the land or property is underwritten by a known set of rules and that the right is justiciable. An individual or group, such as a family, can be said to have secure tenure when they are protected from involuntary removal from their land or residence, except in exceptional circumstances, and then only by means of a known and agreed legal procedure. Forms of secure tenure include leasehold, freehold, conditional

freehold, collective tenure, and communal tenure as well as legislative protections applicable to all dwellers.

b. Availability of services, materials, facilities and infrastructure

Adequate housing must meet the requirements necessary for human health and well being, and must accommodate basic community needs. According to the Committee on Economic, Social and Cultural Rights, in order for housing to be adequate it must provide for safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services. Basic infrastructure which ensure housing adequacy commonly includes water supply systems, sanitation systems and garbage collection, electricity supply systems, road construction, rainwater drainage systems and street lighting.

c. Affordability

The requirement that housing be affordable signifies that personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. As such, housing should not be so expensive that it leaves little room in one's budget for utilities, food, clothing, transportation, health care and other basic needs. Low-income or subsidised housing must be made available to persons in need of assistance, and such housing must also comply with the other provisions stipulated here in order for that housing to be deemed adequate. The average cost of housing per month should, in most cases, consume no more than approximately one-third of total monthly income, although there may be exceptions in certain cases.

d. Habitability

Adequate housing must provide adequate space and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease. As such, housing must be constructed with materials that offer protection from the elements and provide for the comfort of occupants. Housing must also be in keeping with the protection of human health, and cannot contain hazardous or dangerous materials which cause illness or which may cause sickness or chronic disease over time, i.e. 'sick buildings.' Housing must also provide adequate space for occupants, and should not be overcrowded, thereby promoting both the comfort and health of occupants.

e. Accessibility

Adequate housing must be accessible, or readily attainable, to those entitled to it. For example, disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Disadvantaged groups such as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, persons living in disaster-prone areas and other vulnerable groups should be ensured some degree of priority consideration with respect to their housing rights. Both housing law and policy should take fully into account the special housing needs of such groups.

f. Location

According to the Committee on Economic, Social and Cultural Rights, adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to

health of the inhabitants. As such, housing should not be built on or near environmental hazards, including garbage dumps and other such hazardous sites.

g. Cultural adequacy

Because of the importance which housing plays within the lives of individuals as well as communities, housing must also be culturally adequate. As such, the way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing.

Housing rights element no. 2: Scale and scope of forced eviction

The right to not be forcibly evicted from one's home is a fundamental human right, which has been addressed in detail in General Comment No. 7 (see Annex III). Additionally, in a strongly worded resolution on the practice of forced eviction, the United Nations Commission on Human Rights affirmed "*that the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing.*" Forced eviction is the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. Forced evictions are a particular type of displacement, which are most often characterised or accompanied by:

- a relation to specific decisions, legislation or policies of States or the failure of States to intervene to halt evictions by non-state actors;
- an element of force or coercion; and
- often being planned, formulated and announced prior to being carried out.

General Comment No. 7 states that "*forced evictions are prima facie incompatible with the requirements of the ... [ICESCR] and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.*"³ Most often, mass forced evictions occur due to development projects, discrimination, urban redevelopment schemes, gentrification, urban beautification, land alienation in both rural and urban areas and in situations of armed conflict and ethnic cleansing, or their aftermath. Forced evictions are also related to issues of security of tenure, homelessness and displacement.

Housing rights element no. 3: Scale and scope of homelessness

Article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard living adequate for the health and well being of herself/himself and of her/his family. The scale and scope of homelessness is included as an element of housing rights because homeless persons represent the most vulnerable of the housing poor and because homelessness represents a fundamental violation of every person's right to an adequate standard of living. In addition, the situation of homeless persons is also often indicative of the broader situation of housing rights within a given place as a whole, and may be related to issues of discrimination, forced eviction and affordability of housing.

Homelessness in general can be defined as the phenomenon whereby a person or family lacks access to permanent housing. A homeless person is a person who lacks a fixed, regular and adequate night-time residence or a person whose primary night-time residence is a supervised or publicly operated shelter designed to provide temporary living accommodation, or an institution that provides a temporary residence for individuals intended to be institutionalised, or a public or private place not designed for, or ordinarily used as, a regular

3. For more information, please see the Committee's General Comment No. 7 provided in Annex III. and OHCHR Fact Sheet No. 25: Forced Evictions and Human Rights.

sleeping accommodation for human beings (i.e. pavement dwellers, street children, persons sleeping in parks).⁴

‘Squatters’ are often considered a particular segment of the homeless population, as they occupy a dwelling unit or land without what is considered to be legal title to, or lawful possession of, that dwelling or land. For example, persons who take up residence in unused or abandoned dwellings or buildings are considered squatters. In most developing countries however, large populations squatting on land in the urban periphery are not considered as being homeless. Under certain circumstances, squatters can eventually acquire ownership rights to the dwelling or building in which they reside. While conceptually homelessness and squatting are two somewhat distinct yet overlapping phenomena (i.e., not all homeless persons are squatters, and not all squatters are considered homeless) for the purposes of this discussion, scale and scope of homelessness may be considered to include squatting. Both of these concepts have been categorised together as way to gauge violations of the right to housing. There is, however, a methodological problem related to possible an overlap between squatting and indicators of security of tenure.

Housing rights element no. 4: The rights to non-discrimination and equality

The right to non-discrimination has been articulated repeatedly within international human rights law. For example, Article 2(2) of the ICESCR states that –

“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁵

In addition, Article 3 of the ICESCR specifically obliges States Parties to ensure equality between women and men, stating that –

“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”⁶

In fact, non-discrimination and equality in the area of housing are rights which are themselves overarching and implicit in every housing rights element described here.

Discrimination in housing may occur on the basis of gender, race and ethnicity, political or other opinion, language, religion, national or social origin, birth or other status including sexual orientation. Women in particular experience gender-based discrimination in housing with respect to ability to hold legal title, as well as discrimination with regard to issues of housing and property inheritance. Such discrimination places women in a vulnerable position economically and socially, exposing them to situations of violence, and impeding their ability to control their own lives and basic living arrangements. Similarly, discrimination on the basis of race and ethnic origin impedes certain groups from having access to the same housing resources and living standards available to the rest of the population. In situations of internal conflict, selective forced eviction and other forms of discriminatory housing policies carried out against certain racial or ethnic groups can result in humanitarian crisis and mass displacement.

4. See also UN-Habitat (2000), “Strategies to Combat Homelessness,” available on-line at: <<http://www.unhabitat.org/housing/pub>>.

5. International Covenant on Economic, Social and Cultural Rights, 16 December 1966, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), entry into force 3 January 1976. Available on-line at: <http://www.unhchr.ch/html/menu3/b/a_cescr.htm>.

6. Ibid.

Housing rights element no. 5: National legal protection

While the law in general, and human rights or housing rights laws in particular, cannot be seen as panaceas for rectifying social ills and on-going injustices such as forced evictions, homelessness, racial and social discrimination, the continuation or growth of inadequate housing and living conditions and other housing rights violations, national law is an important measure of a State's commitment to housing rights. The official recognition in domestic law of housing rights provisions, and with them the corresponding governmental obligations to respect, protect and fulfil these rights, provide a solid basis upon which grassroots groups, communities, NGOs, lawyers and others can more forcefully assert the demand for adequate housing for all. Seen in this light, the law can become an instrument for popular empowerment and government accountability. National legal protection can be thought of as having at least two elements in this regard, namely the existence of national legislation ensuring the right to housing, and the *de facto* application of these provisions and protections in practice.

a. National legislation

For housing rights to be properly protected, they must be codified and enshrined in national law. Article 2(1) of the ICESCR states that –

*“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”*⁷

While not all states are legally bound to abide by this provision, the implementation of domestic legislation protecting housing rights also has a normative component, and arguably indicates the level of willingness of the state to protect housing rights. Legislative measures provide for the practical implementation of the different aspects of the right to adequate housing at the national level, and are thereby critical to their effective protection. National level housing rights protections may be manifest legally in any number of ways, including:⁸

- (a) housing acts;
- (b) rent and rent restriction legislation;
- (c) specific housing rights legislation, including homeless person acts;
- (d) landlord-tenant law;
- (e) urban reform laws;
- (f) security of tenure legislation;
- (g) civil and criminal codes;
- (h) land use, zoning and agrarian laws;
- (i) planning laws and regulations;
- (j) building codes and standards;
- (k) laws relating to inheritance rights for women;
- (l) land acquisition and expropriation acts;
- (m) non-discrimination;

7. Ibid.

8. The UNHRP report entitled *National housing rights legislation*, published by UN-HABITAT in 2002, provides a compilation of various such categories of national housing rights legislation from a wide range of countries. The report is available in electronic format only, from: <http://www.unhabitat.org/programmes/housingrights/unhrp_reports.asp>.

- (n) equality rights;
- (o) eviction laws;
- (p) development laws; and
- (q) environmental standards.

Each of these legal regimes provides a framework for determining the overall status of legislative protection and promotion of housing rights at the national level.

b. Due process/ legal remedies

Not only is it important to ensure that housing rights are codified at the national level, but additionally, access to due process protections and appropriate legal remedies must be ensured. That is, not only must housing rights provisions be written down as law, they must also serve the protective functions of law for which they were intended. Therefore, due process in the area of housing must be ensured if housing rights are to be properly protected; namely, shielding people from such violations as forced eviction, discrimination, and abusive tenancy agreement, while also ensuring access to legal and equitable remedies when such violations occur. In other words, access to avenues of effective legal recourse, particularly by the most vulnerable in a society, must exist so that all people's housing rights are not only enshrined as a matter of national law, but also protected in practice. Access to legal services, presence of national and local institutions charged with protecting housing rights and judicial enforcement mechanisms must therefore accompany any national housing rights legislation. In addition, these legal remedies must be made available and accessible to those persons who represent the most vulnerable or marginalized within a society. This may be evidenced, for example, by the availability of legal aid programmes, which benefit the poor.

Housing rights element no. 6: Acceptance of international standards

Acceptance of international standards is an important element to consider for inclusion within the set of housing rights indicators for both legal and normative reasons. First, ratification of international instruments protecting the right to adequate housing *legally* binds a state to comply with those housing rights provisions as stipulated within that specific international treaty. This legal obligation clearly entails the responsibility of the state to take effective measures to respect, protect and fulfil housing rights. Yet, beyond their legalistic value, ratification of such an instrument helps to demonstrate a state's commitment to the norms articulated within the treaty. Ratification or accession to an international instrument demonstrates that a state has voluntarily consented to be bound by the provisions of a given treaty. Acceptance of international standards with regard to housing rights is most clearly demonstrated if a state has ratified the leading international instruments which set forth and protect this right, most notably, the ICESCR. Under its Article 16, all States Parties are obliged to submit periodic and timely reports to the Committee on Economic, Social and Cultural Rights for their review.⁹ This reporting function allows for the monitoring of the status of housing rights within a given state, and the submission of periodic and timely reports can be taken as evidence of a state's willingness to comply with its international legal obligations.

One very important issue in the monitoring and evaluation of the progress in realisation of housing rights both in conceptual framework and in practise is the need to focus on the factor of progressiveness. In General Comment No. 3 on the nature of States Parties obligations, the Committee noted that –

“The principal obligation of result reflected in Article 2(1) is to take steps ‘with a view to achieving progressively the full realisation of the rights recognised’ in the

9. Ibid.

Covenant. The term 'progressive realisation' is often used to describe the intent of this phrase. The concept of progressive realisation constitutes a recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time ... It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal."¹⁰

The principle of progressive realisation is fundamental to the actual attainment of adequate, secure housing, even in States which have otherwise poor housing rights records. This idea illustrates that States must continually achieve, through progressive measures, improvements within their national housing situation. As such, progressive realisation refers to an over-time improvement in the overall national housing situation, especially with respect to the situation of the housing poor.

II.C. Potential housing rights indicators

These above six elements, (1) housing adequacy, (2) scale and scope of forced eviction, (3) scale and scope of homelessness, (4) the rights to non-discrimination and equality of rights, (5) national legal protection, (6) acceptance of international standards, all identify and capture a part of the larger concept of 'housing rights.' Yet, in order to construct a set of housing rights indicators, one must next think of ways to make each of these elements 'quantifiable.' Namely, attention must be turned to the potential indicators, which may be used to measure the status of each element or sub-element described above.

It must be noted at the outset of this discussion that data on potential housing rights indicators are, in fact, already collected by various organs within the United Nations system. Particularly relevant to housing rights concerns, Economic and Social Council resolution 1995/7 on the 2000 World Population and Housing Census Programme stressed that periodic population and housing censuses are one of the primary sources of data needed for effective development planning and the monitoring of population issues and socio-economic and environmental trends, policies and programmes aimed at the improvement of living standards. The Economic and Social Council also noted that national population and housing censuses additionally –

provide valuable statistics and indicators for assessing the situation of various special population groups, such as those affected by gender issues, children, youth, the elderly, persons with an impairment/disability/handicap and the homeless and migrant population, and changes therein.

The official United Nations Census Recommendations vis-à-vis the World Population and Housing Census includes three items under the characteristics of the 'building' (these are: type of building, construction material of outer walls, and year or period of construction) and 14 items under the characteristics of 'living quarters,' (these are: location of living quarters, type of living quarters, occupancy status, type of ownership, number of rooms, floor space, water supply system, toilet and sewerage facilities, bathing facilities, cooking facilities, type of lighting and/or electricity, type of solid waste disposal, occupancy by one or more households and number of occupants).¹¹

10. The full text of General Comment No. 3 of the United Nations Committee on Economic, Social and Cultural Rights is available on-line at: <[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument)>.

11. Sam Suharto, "Complementary Sources of Demographic and Social Statistics," Symposium on Global Review of 2000 Round of Population and Housing Censuses: Mid-Decade Assessment and Future Prospects, Statistics Division, Department of Economic and Social Affairs United Nations Secretariat New York (7-10 August 2001), UN Doc. ESA/STAT/AC.84/6 (2001). Report available on-line at: <http://esa.un.org/unsd/demog/docs/SP2_6.doc>. See also <<http://www.un.org/Depts/unsd/demog/cendate/index.html>>.

Additionally, data on urban/rural population distribution, percentage of population with access to drinking water, percentage of population with access to sanitation facilities, and average number of persons per room are already collected through UN-HABITAT. As such, when thinking about potential indicators, it is useful to keep in mind what data are already regularly collected and made available at the international level, what kinds of new data may be integrated into existing data collection systems, and what kinds of new data may be collected separately. Similarly, it must also be kept in mind what kinds of data cannot be collected or which would not be appropriate or useful due to practical limitations and related methodological considerations. Before beginning a discussion of the potential indicators to be used as parts of the set of housing rights indicators, it would be helpful to address in more detail some of the technical considerations that must be kept in mind when proposing and selecting specific indicators.¹² Some of these considerations include:

II.C.1. Conceptual validity

Because indicators are most often indirect or proxy measures of what they are intended to specify, it is important that the selection of indicators fulfil basic conceptual validity requirements. First, indicators must be valid in the sense that they actually do measure what they claim to measure. Second, it is important that what they claim to measure is an important element of the concept being researched, in this case, housing rights. The use of inappropriate indicators would severely jeopardise the integrity of the overall set. Therefore, it is important to address the meaningfulness of an indicator, with the knowledge that some indicators will not always reflect aspects of housing rights in a significant way and may be an easy way to avoid attacking the actual root causes of housing poverty and related concerns.¹³

II.C.2. Statistical validity

Statistical validity addresses the soundness of the construction of the set of indicators. For the set to be statistically valid, its methodological accuracy must be ensured. Statistical validity requirements represent an important concern in data collection and imply that the data and the methods for data collection must have integrity across cases. One impediment to these requirements, for example, would be a situation in which data on the ‘same’ indicator for use in an analysis of a cross-section of States may have been collected in totally different ways. Given the disparity in states’ respective abilities to gather data, as well as the differing cultural values given to various aspects of housing, it is of the utmost importance that a composite index ensures that indicators are defined consistently across states. This points to the need to develop clear operational definitions for what is measured (please refer to Annex I) as well as some minimum standards for data collection. In addition, the set of indicators must be balanced, apparent contradictions or duplication between certain indicators must be minimised, the non-universal nature of some important indicators should be managed through careful consideration of operational definitions. The use of improper or inconsistent criteria and methodologies in the selection of indicators would jeopardise the statistical validity of the set of indicators seen as a whole.

II.C.3. Data reliability

Data reliability signifies that, if measured repeatedly, an indicator will yield consistent results. For example, if one were to measure the weight of a box on a scale three times, neither adding

12. See also United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, 6 July 1990, “Realisation of Economic, Social and Cultural Rights: Progress report prepared by Mr. Danilo Türk, Special Rapporteur,” UN Doc. E/CN.4/Sub.2/1990/19.

13. Ibid.

to nor taking away from the weight of the box, and the scale *first* reported that the box weighed 5 kilograms, reported on the *second* trial that the box weighed 3 kilograms, and then reported on the *third* trial that the box weighs 8 kilograms, one would not have a reliable scale. Yet, simply because a measure is reliable does not necessarily mean that it is valid. For example, while a person's height in centimetres using a tape measure would be a reliable measure in terms of providing the same result time and time again, it would not be a valid measure of the temperature outside. In order for an indicator to be useful, it must be both reliable and valid.

II.C.4. Data sources

Perhaps the most fundamental consideration that must be taken into account with regard to the selection of indicators is the lack of available and/or reliable data pertaining to specific social trends, in this case housing rights. Some of the more common problems encountered with regard to data sources include –

- *incomplete or outdated data sources*, whereby data sources are incomplete or offer out-dated information;
- *lack of data generalisability*, whereby data are inappropriately extrapolated from a given sample which is not generalisable to the level for which the data claims to represent, in this case to the national level; and
- *data bias*, whereby certain data sources may in certain cases result in the reporting of biased figures, and this may be especially true when examining sensitive or controversial topics that relate to legal State obligations.

II.C.5. Periodicity of data

In order to maintain complete data sets, which allow for over-time as well as cross-national comparison, the set of indicators must use data, which is collected during roughly the same time period. Depending on the data sources used by the various indicators, there may be difficulties synchronising various data sources so that comparisons are possible, and so that complete, or near complete, data sets can be ensured. As such, the set of indicators will have to address issues regarding the periodicity of data sources, especially if relying on more than one source, and if relying on already existing data sources. In this way, the periodicity of data sources may largely determine the periodicity of the set of indicators itself. While it may not be possible to initially to publish data on the entire set of indicators on an annual or even biannual basis, as a matter of principle it would be best to aspire to collect data sets, which are as complete as possible, on a regular and timely schedule. While it is true that this approach may decrease the variability seen from one data set to the next (data sets collected every year versus data sets collected every ten years), it would significantly increase the precision and usefulness of the set of housing rights indicators by pin-pointing turning points (i.e. specific years or periods in which the realisation of housing rights either improves or deteriorates markedly) and helping to illuminate over-time trajectories.

II.C.6. Summary of potential indicators

In order to facilitate thinking about possible indicators, which may meet these requirements, below are listed several possible alternative indicators for the six housing rights elements. This list is not meant to suggest that all of these indicators can or should be used in the final set of housing rights indicators. Rather, these indicators are meant to help begin the process of

thinking about how to measure housing rights as well as to provide some alternative choices which can be considered, ultimately with the aim of choosing the best ones.¹⁴

(1) Housing adequacy [General Comment No. 4]

(a) Legal security of tenure

- Number:1000 households with legal title to their homes
- Number:1000 households with legally enforceable leases
- Number:1000 households with statutory or other legal due process protections with respect to eviction
- Number:1000 persons living in informal settlements
- Number:1000 persons living in social housing
- Number:1000 owner-occupied households
- Number:1000 renter occupied households

(b) Availability of services, materials, facilities and infrastructure

- Number:1000 households with potable water
- Number:1000 households with sanitation facilities
- Number:1000 households with garbage collection
- Number:1000 households with access to paved or gravel roads
- Number:1000 households with emergency services
- Number:1000 households with electricity

(c) Affordability

- Median household monthly housing payment/ Median household monthly income (to be calculated separately according to income distribution by quintile, i.e., for the poorest 20% of the population up through the wealthiest 20% of the population)
- Median annual or monthly housing expenditure per household/Median annual or monthly household income
- Number:1000 vacant dwellings
- Number:1000 social housing units

(d) Habitability

- Number:1000 new housing units built per year
- Number:1000 new social housing units built per year
- Average age of housing stock
- Average number of square metres/ person/ household
- Average number of persons/ room
- Number: 1000 households with more than 2 persons per room
- Number: 1000 households living in temporary/ dilapidated structures
- Presence of national legislation mandating minimum habitability standards

(e) Accessibility

- Presence of national legislation ensuring accessibility for persons with disabilities to multi-unit residential buildings

(f) Location

- Number:1000 households within 0-10 kilometres of a garbage, toxic waste or otherwise hazardous sites
- Number:1000 households residing near a hazardous site
- Number:1000 persons with access to public transportation
- Average distance from home to nearest hospital

14. Please note that many of the indicators suggested here would involve either data collected at the level of the household or data collected at the level of the individual. It should be noted that it may be possible to extrapolate data at the level of the individual from data gathered by household (and *vice versa*), if data on average household size is available.

- Average distance from home to nearest school
- Average distance from home to nearest child care centre
- Average distance from home to place of employment
- (g) Cultural adequacy**
 - Presence of national legislation ensuring local community involvement in development of housing policies, especially as related to minority racial and ethnic groups, including indigenous groups
- (2) Scale and scope of forced eviction** [General Comment No. 7]
 - Number:1000 households forcibly evicted within the past 12 months
 - Number:1000 displaced persons
- (3) Scale and scope of homelessness**
 - Number:1000 homeless persons using number of people who are homeless at any time during the past 12 months (also referred to as period prevalence counts)
 - Homeless shelter beds per homeless person
 - Number:1000 persons squatting using number of people who are squatting at any time during the past 12 months (also referred to as period prevalence counts)
 - Number:1000 squatter occupied buildings
 - Existence of national policy which allows for the regularisation of squatter settlements and squatter occupied buildings
- (4) Rights to non-discrimination and equality**
 - Women's recognised legal right to property inheritance and ownership [CHR res. 2001/13]
 - Presence of national legislation forbidding discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status [ICESCR Art. 2(2)]
 - Presence of constitutional clause or national legislation ensuring the equal right of men and women to the enjoyment of all housing rights [ICESCR Art. 3]
- (5) National legal protection**
 - (a) National legislation**
 - Presence of national legislation recognising the right to adequate housing
 - Presence of national housing institutions
 - (b) Due process/legal remedies**
 - Presence of a legally specified notification period which must be observed before any eviction is carried out
 - Presence of legal due process protections provided in all cases of eviction, including the right to have a case heard before an independent and impartial judicial body
 - Availability of legal services provided to individuals at a low cost, i.e., legal aid
 - The right to have legal representation provided in all evictions cases
 - Presence of governmental offices to address housing rights issues, particularly violations and remedies
- (6) Acceptance of international standards**
 - Ratification of, or accession to, the International Covenant on Economic, Social and Cultural Rights
 - Regular reporting to the Committee on Economic, Social and Cultural Rights
 - Ratification of, or accession to, the International Convention on the Elimination of All Forms of Racial Discrimination

- Ratification of, or accession to, the Convention on the Elimination of All Forms of Discrimination against Women
- Ratification of, or accession to, the Convention on the Rights of the Child
- Ratification of, or accession to, regional Human Rights Conventions, as applicable (Europe, Africa, Americas)

In addition, other data may be collected in order to provide background information that may be used to adequately interpret the data findings. Some of these may include:

- Population size and population density
- Population growth rate
- Urban/rural population distribution
- GDP or GNP/capita
- Average household size
- Income and/or wealth distribution by quintile
- Income and/or wealth distribution by gender and race
- National ethnic and racial groups
- Status of women's rights and equality
- Level of human development (Human Development Index)
- Level of social inequality (GINI Index)

II.D. Additional concerns to be addressed

There are several other issues which should be addressed in some capacity when constructing the set of housing rights indicators, which were not included within the six specific housing rights elements outlined above. These issues speak to the ways in which data on the six elements should be collected, interpreted and utilised.

II.D.1. Disaggregating the data

Indicators used towards the realisation of economic, social and cultural rights, in addition to providing measurements for overall status of the rights being measured, must also be disaggregated for a variety of groups in society. This is a critical task, because the sole use of aggregated data may yield misleading results, which entirely obscure the issue of discrimination and inequality in the area of housing rights. Societal means or averages are not extremely helpful measurements within this context. Without relatively detailed statistics for various population sectors and sub-sectors, the utility of applying, for instance, legal tests of the non-discrimination clauses of the ICESCR and international human rights law in general will remain limited.

Discrimination in the area of housing includes acts or policies that block or do not provide for equal access to housing. For example, not selling or renting to a person on account of that person's race, gender, nationality, religion, ethnicity, sexual orientation, disability etc. would constitute housing discrimination. Likewise, not lending financial support in order to purchase housing on account of the above factors would constitute housing discrimination. Therefore, when collecting specific data on the six housing rights elements outlined above, it is important that data be disaggregated according to, at a minimum, gender, race and ethnicity, age and income. This is especially important with regard to measurements of all of the components of adequate housing, scale and scope of forced eviction, and scale and scope of homelessness.

The disaggregation of data overlaps somewhat with the non-discrimination element of housing rights (housing rights element number 4 above), however, this element is conceptually distinct in that it only addresses the presence of national legal standards which protect individuals from discrimination. Because of the discrepancies, often vast, between the

letter of the law and housing situation as it exists in reality when it comes to the issue of discrimination, it is important to address both of these variables separately. That is, the set of indicators should address not only the legal situation as evidenced by existence of national non-discrimination legislation (as element 4 provides) but also allow for an analysis of the factual situation through the collection of disaggregated data which provides specific information according to gender, race and ethnicity, age and income inequality in housing. Only by disaggregating the data in this manner can a more complete view of the intra-societal inequalities and disparities which exist in the area of housing rights be obtained, and thereby an understanding of whether the relevant legal provisions are being adequately implemented. As practitioners are well aware, these disparities often fracture across racial, ethnic and gender lines. Similarly, the set of housing rights indicators must allow for data findings to be presented on specific groups, in addition to aggregated data which may provide an overview of the status of housing rights as a whole.

II.D.2. Measuring ‘willingness’ and ‘ability’

For the set of housing rights indicators to be meaningful, it must be able to address both a state’s ability, as well as its willingness, to respect and fulfil housing rights. These concepts are distinct from one another in significant ways. On the one hand, ‘ability’ addresses the resources which a state has at its disposal to ensure housing rights, as perhaps measured by level of human development (perhaps using UNDP’s Human Development Index) and level of social inequality (using the GINI index). ‘Willingness’,¹⁵ on the other hand, addresses that while some states may have every desire to protect and promote the housing rights of its residents, they may genuinely lack the necessary financial and other resources needed to provide adequate housing to all, even if they spend a relatively large proportion of their financial resources on housing and related issues. Alternatively, while a State may have the resources to provide adequate housing to all its residents, it may not take the necessary, and indeed required, measures, which would be in proportion to their level of wealth to ensure this right. Measures of willingness may include percent expenditure of GDP on housing rights related initiatives, existence of legal housing rights protections, acceptance of international standards as well as improvements over time in housing and housing policy. As has noted by a human rights expert, ‘indicators of will,’ or willingness, can also be sub-categorised as indicators of ‘legal commitments’ made by the state, as well as indicators of ‘political commitments’ or political will.¹⁶

While a set of indicators is perhaps not the best or most appropriate way to measure international socio-economic inequalities, there should be some understanding by those who design and use the indicators that ‘ability’ is, in fact, a variable. In other words, the level of ability cannot be held constant across all cases, as the world is in many ways divided along the economic lines of wealth and poverty. Therefore, responsibility for the ‘ability’ of a State to implement satisfactory provisions and programmes toward the realisation of housing rights rests, in part, upon the shoulders of the international community. This sentiment has been echoed by the United Nations Committee on Economic, Social and Cultural Rights, which has noted:

15. “Willingness” has also been referred to as “capacity” by other human rights scholars and experts who have addressed the use of indicators to measure the status of economic, social and cultural rights. See Asbjørn Eide (2001), “The Use of Indicators in the Practice of the Committee on Economic, Social and Cultural Rights,” in Asbjørn Eide et al. (eds.), *Economic, Social and Cultural Rights*, Netherlands: Kluwer Law International, 2nd Edition, p. 545-551.

16. Asbjørn Eide (2001), “The Use of Indicators in the Practice of the Committee on Economic, Social and Cultural Rights,” in Asbjørn Eide et al. (eds.), *Economic, Social and Cultural Rights*, Netherlands: Kluwer Law International, 2nd Edition, p. 545-551.

The challenge in giving substance to economic, social and cultural rights remains enormous, not only because so little effort has been made by the international community to date, but also because of the complexity of the issues that must be addressed. That complexity arises not only from the nature of the rights themselves, but also from the dramatically uneven levels of economic development that have been achieved, the impact of 'globalization' on national economies and the shrinking role of the State. Those difficulties, however, serve only to emphasize the importance of developing more effective, nuanced and constructive approaches in promoting these rights.¹⁷

Willingness, however, reflects a state responsibility, and *only* states can be ultimately held accountable for their level of willingness, or unwillingness, to protect the housing rights of their residents. Addressing 'willingness' and 'ability' separately may be useful in understanding how, and if, a state is taking sufficient steps to meet its legal obligations to achieve progressively the full realisation of rights embodied in the ICESCR. Arguably, even if a state is not a Party to the Covenant, there is still a legitimate normative expectation that the state would act in ways, which are consistent with the spirit of international human rights law.

Because 'progressive realisation' will mean something different within different contexts, the concepts of willingness and ability are potentially of value in understanding whether states are in fact complying with this obligation. The set of indicators should consider measuring the progressive realisation of the right to adequate housing. *Nevertheless*, this measure must be interpreted within a broader context, which acknowledges the distinctions between a state's ability and a state's willingness to respect protect and fulfil housing rights. Indeed, being able to measure progressive realisation is more important than utilising the set of indicators to make a comparison of the status of housing rights in one state versus another. For instance, a simple comparative analysis may rank State A significantly higher than State B. The same comparison five years later may have the same result. These measurements, however, do not necessarily indicate that State A is respecting or fulfilling the right to adequate housing better than State B. For example, housing conditions in State A may benefit from that State's larger amount of resources, but State A may have adopted regressive measures during the five year period that actually eroded its housing condition. Meanwhile, State B may have fewer resources, and thus a lesser ability to fulfil housing rights, but may have adopted policies during the five year period that have improved housing conditions. Due to the disparity in resources between State A and State B, however, State A may still be ranked higher on a simple comparative measurement. Such considerations become even more important if State B's lack of available resources for housing results from structural adjustment policies or trade agreements that benefit State A.

This broader understanding is critical in order to ensure that the set of indicators does not serve to actually measure level of economic development and wealth, rather than the status of housing rights. That is, without understanding and incorporating 'willingness' and 'ability,' the set of indicators may be inherently biased against countries at a lower level of economic development. While status of housing rights and overall level of economic development may well be related to one another, the set of housing rights indicators should be sensitive enough to be able to separate and discriminate between these variables. One way to do this is by including an analysis of state willingness and state ability to ensure housing rights.

17. United Nations High Commissioner for Human Rights and the Committee on Economic, Social and Cultural Rights, "Plan of Action to Strengthen the Implementation of the International Covenant on Economic, Social and Cultural Rights." Available on-line at: <<http://www.unhcr.ch/html/menu2/6/action.htm>>.

III. Developing a set of housing rights indicators

III.A. Choosing specific indicators: pros and cons

Having now presented some potential indicators which may be used in the construction of the set of housing rights indicators, it is now appropriate to turn attention to the process of how to move from these individual indicators to the creation of an integrated and functioning set of indicators. As such, this chapter considers justifications for choosing among specific indicators, as well as how to operationally define key terms. In addition to this, the chapter also includes a section on how to apply different weight to different indicators for the purposes of assessing the overall realisation of the right to adequate housing in a particular country.¹

As mentioned, some international housing data is collected through the World Population and Housing Census, which includes three items under the characteristics of the ‘building’ and 14 items under the characteristics of ‘living quarters’. Other relevant data are already collected by UN-HABITAT (see section II.C above). Additional national level data may, at times, be available through national census statistics, although this information may vary greatly in accuracy and detail.

Because it is necessary to construct a set of indicators, which is as comprehensive as possible, but also practical and useable, the final set must be comprised of indicators for which data can be accurately collected, if data is currently not being gathered. It is neither practical nor desirable to use an over-abundant number of indicators, as some indicators may be duplicative, and others may unnecessarily complicate the data collection process. Therefore, it is necessary to both streamline the number of indicators used, while at the same time choosing the most methodologically sound and conceptually valid indicators. The next sections delve into these issues by addressing the potential indicators for each element, one element at a time, addressing the pros and cons of each.

III.A.1. Housing adequacy: Legal security of tenure

- Number:1000 households with legal title to their homes
- Number:1000 households with legally enforceable leases
- Number:1000 households with statutory or other legal due process protections with respect to eviction
- Number:1000 persons living in informal settlements
- Number:1000 persons living in social housing
- Number:1000 owner-occupied households
- Number:1000 renter occupied households

Pros and cons

In order for legal security of tenure to be adequately measured, the respective indicators must provide information on the number of persons who have legal security of tenure as either a homeowner or renter, and, alternatively, on the number of persons living without legal security of tenure. While renters may not have ‘legal title’ in terms of owning the places in which they live, they should benefit from security of tenure and should be protected against forced eviction.

The first indicator, [number:1000 households with legal title to their homes](#), and the second indicator, [number:1000 households with legally enforceable leases](#), address the number of persons with security of tenure as either a homeowner or renter as evidenced by the

1. Whether these weights may eventually lead to the preparation of a ‘housing rights index’ is too early to assess at this stage. There are currently no plans to develop such an index.

presence of legally enforceable contractual agreements. The third indicator, [number:1000 households with statutory or other legal due process protections with respect to eviction](#) addresses the security of tenure for *both* homeowners and renters, and thereby, arguably the use of this indicator in place of the previous two may simplify data collection. However, by dealing with only statutory protection, and not contractual protection, the third indicator may not be broad enough to cover security of tenure provisions as covered by the previous two. Yet, the indicator [number:1000 households with statutory or other legal due process protections with respect to eviction](#), can allow for the measurement of contractual protection by simply rephrasing the measure to read ‘with legally enforceable contractual, statutory, or other protections providing legal due process with respect to eviction.’ Finally, the fourth indicator, [number:1000 persons living in informal settlements](#), helps to provide a check on the data provided by this indicator by providing information on those living without secure tenure.

Ideally, there should be a significant negative correlation between the chosen indicators, so that as [number: 1000 households with legally enforceable contractual, statutory or other protections providing legal due process with respect to eviction](#) goes up, the [number: 1000 persons living in informal settlements](#) goes down. While a combination of first three indicators, coupled with the fourth present a picture of the overall tenancy structure within a country, either of these figures alone would be incomplete and would not provide an adequate overview of the status of housing rights with respect to legal security of tenure. Therefore, the following two indicators arguably offer the best measures of legal security of tenure:²

- [Number:1000 households with legally enforceable contractual, statutory or other protections providing legal due process with respect to eviction](#); and
- [Number:1000 persons living in informal settlements](#).

On a theoretical note, while legal security of tenure was identified as an element of housing adequacy in General Comment No. 4 (see section I.B above), it may be advantageous to place these indicators under housing rights element no. 2: ‘Scale and scope of forced evictions’ based on the assumption that legal security of tenure is in fact intimately related, both theoretically and statistically, to incidents of forced eviction. Based on these considerations, these two indicators on security of tenure have been moved from measurements of ‘housing adequacy’ to measurements of ‘scale and scope of forced eviction.’

III.A.2. Housing adequacy: availability of services, materials, facilities and infrastructure

- [Number:1000 households with potable water](#)
- [Number:1000 households with sanitation facilities](#)
- [Number:1000 households with garbage collection](#)
- [Number:1000 households with access to paved or gravel roads](#)
- [Number:1000 households with emergency services](#)
- [Number:1000 households with electricity](#)

Pros and cons

All of the above indicators address services which are necessary to ensure the basic adequacy of housing, and as such one indicator should not necessarily be considered more important than another. Because there is no measure that would wholly encompass housing adequacy with regard to availability of services, facilities, materials and infrastructure, a choice must be made from several indicators, which measure significant aspects of this concept. It is unclear

2. In addition to this discussion and the two indicators ‘shortlisted’ it is appropriate to also review the discussion on secure tenure indicators in the report of the “Expert Group Meeting on Urban Indicators: Secure tenure, slums and global sample of cities”, UN-HABITAT, 2002.

what degree of correlation may exist between any two of the above indicators, so that one or two of these indicators could stand in place of the others. It may be that **Number:1000 households with access to paved or gravel roads** may in fact be related to **Number:1000 households with emergency services**, but specific data to support this intuitive claim is unavailable. Therefore, for the purposes of choosing indicators with regard to availability of services, facilities, materials and infrastructure, it can be assumed that all of the above mentioned indicators would be equally important and potentially distinct.

With this understanding, the above indicators can be narrowed down based on methodological concerns. For example, as noted earlier, UN-HABITAT already collects data on the percentage of population with access to drinking water and sanitation facilities respectively, which could perhaps be easily modified to provide data in terms of number: 1000 households, rather than as a percentage. The use of these two indicators alone would provide some basis on which to assess the adequacy of housing, and would conveniently utilise data, which is already being collected. While other of the above mentioned indicators may also be used, data on water and sanitation would be sufficient to measure this component. For these reasons, the following two indicators are suggested:

- **Number:1000 households with potable water;** and
- **Number:1000 households with sanitation facilities.**³

III.A.3. Housing adequacy: Affordability

- **Median household monthly housing payment/ Median household monthly income** (to be calculated separately according to income distribution by quintile, i.e., for the poorest 20% of the population up through the wealthiest 20% of the population)
- **Median annual or monthly housing expenditure per household/Median annual or monthly household income**
- **Number:1000 vacant dwellings**
- **Number:1000 social housing units**

Pros and cons

Housing affordability addresses the importance of having housing costs represent a reasonable proportion of a household's income. While what constitutes a 'reasonable' proportion of income will invariably differ from place to place based upon other cost of living variables, for the purposes of this discussion it can generally be said that housing should consume no more than between a quarter and a third of total household income. With regard to the above indicators, the first two indicators can be categorised as is, while they are methodologically somewhat different, they both attempt to capture the same information related to the *proportion* of household income spent on housing.

Before going further, it should be noted that collecting information on the proportion of income spent on housing is perhaps a more complicated question than it may otherwise appear, because the character of social inequality with respect to income has the potential to skew the data in misleading ways. Take a very basic example, if a society of 5 persons has 1 person who makes \$100 per year and pays \$25 annually for housing, and 4 persons that make \$2 per year but pay \$1 annually for housing, the *average* proportion of income spent on housing (average expenditure/ average income) in this hypothetical society would be 27 per cent. Yet, based upon these figures, one can clearly see how this number does not represent

3. For a more detailed discussion of these two indicators as elaborated by UN-HABITAT, see the report of the "Expert Group Meeting on Urban Indicators: Secure tenure, slums and global sample of cities", UN-HABITAT, 2002.

the reality for the majority of the population in the example. Using medians, instead of means/averages should therefore be used when dealing with income data.

The major difference between the first two potential indicators is the sensitivity with which the data are collected and analysed. The first indicator ([median household monthly housing payment/ median household monthly income](#)) is designed to be more sensitive than the second ([median annual or monthly housing expenditure per household/ median annual or monthly household income](#)) because it would address proportion of income spent on housing for specific social sectors, that is, the poorest up to the wealthiest quintile. This analysis would yield more specific information based on level of income than would an analysis of data, which was not disaggregated in this way. Because there may be significant disparities in affordability of housing based on whether one is poor, it is important to use the more sensitive indicator.

The last two indicators ([number:1000 vacant dwellings](#) and [number:1000 social housing units](#)) may also address the question of affordability, but only as affordability is related to the status of the housing market. While these measures may serve as good proxies for affordability, in lieu of the first indicator, they should not be necessary. Therefore, it is suggested that one indicator be used to measure affordability:

- [Median household monthly housing payment/ Median household monthly income](#) (to be calculated separately according to income distribution by quintile, i.e. for the poorest 20% of the population up through the wealthiest 20% of the population).

III.A.4. Adequate housing: Habitability

- [Number:1000 new housing units built per year](#)
- [Number:1000 new social housing units built per year](#)
- [Average age of housing stock](#)
- [Average number of square metres/ person/ household](#)
- [Average number of persons/ room](#)
- [Number: 1000 households with more than 2 persons per room](#)
- [Number: 1000 households living in temporary/ dilapidated structures](#)
- [Presence of national legislation mandating minimum habitability standards](#)

Pros and cons

Habitability assesses the structural integrity of housing, as well as overcrowding. The first three indicators address the structural integrity question by measuring, in one way or another, the age of housing. These are not necessarily strong measures however, as age of housing may or may not be directly related to habitability, and may be misleading. In many cases, a well-maintained 100 year-old home may be more structurally sound, safe and habitable, than newly constructed social housing, which in many cases is of extremely poor quality.

In addition, there may be some conceptual overlap between ‘habitability’ and other components of adequate housing such as availability of services, materials, facilities and infrastructure. Therefore, ‘habitability’ may be less important to measure directly in terms of the creation of the set of housing rights indicators. If measured at all, the indicators that measure overcrowding may be used. The next three indicators ([average number of square metres/ person/ household](#), [average number of persons/ room](#) and [number: 1000 households with more than two persons per room](#)) are meant to address this point. The last two of these are the stronger, and the recent ‘Expert Group Meeting on Urban Indicators’ agreed that the cut-off point might be subject to local variations.⁴

4. Ibid.

The same expert group meeting also agreed to include an indicator of the permanency (and/or structural quality) of the dwelling, e.g. **number: 1000 households living in temporary/ dilapidated structures**, subject to local variations and a definition based on the quality of construction (e.g. materials used in walls, floor and roof) and the compliance with local building codes, standards, and bye-laws.⁵

Therefore, the most appropriate indicator of habitability would be:

- **Number: 1000 households with more than 2 persons per room**
- **Number: 1000 households living in temporary/ dilapidated structures**

III.A.5. Housing adequacy: Accessibility

- **Presence of national legislation ensuring accessibility for persons with disabilities to multi-unit residential buildings**

Pros and cons

Accessibility entails that housing should be made suitable for persons living with a disability, chronic illness, or other special consideration or need. While single family units may not all have to comply with the provision of accessibility, multi-unit residential buildings should. One way to measure accessibility, therefore, would be to note the **presence of national legislation ensuring accessibility for persons with disabilities to multi-unit residential buildings**. While this may not necessarily indicate the true level of accessibility as it exists in point of fact, it does show whether or not a given state has acknowledged this responsibility and is taking steps to improve the housing situation for the disabled and chronically ill. If included in the final set of indicators, accessibility could thereby be reasonably measured using:

- **Presence of national legislation ensuring accessibility for persons with disabilities to multi-unit residential buildings.**

III.A.6. Housing adequacy: Location

- **Number: 1000 households within 0-10 kilometres of a garbage, toxic waste or otherwise hazardous sites**
- **Number: 1000 households residing near a hazardous site**
- **Number: 1000 persons with access to public transportation**
- **Average distance from home to nearest hospital**
- **Average distance from home to nearest school**
- **Average distance from home to nearest child care centre**
- **Average distance from home to place of employment**

Pros and cons

When measuring adequate location, there are several sub-components, which could arguably be included. For the sake of simplicity, however, the first two indicators listed above can be categorised as measuring something different from the other five indicators listed above, namely proximity to an environmental hazard. The other five indicators address the distance between where one lives and the social services and employment opportunities one needs, and the capacity of persons to get to these social services using public transport.

Because the last five indicators are somewhat duplicative in this sense, choosing the strongest indicator is certainly advisable, but a bit difficult. Because average distance to a service is perhaps not as important as having the resources available to get to that service, access to public transportation may be more useful indicator than average distance. That is, if

5. Ibid.

one can only walk to the nearest hospital, it perhaps makes a more positive difference in terms of quality of life to have transportation provided to that hospital rather than to have that hospital 10 kilometres closer. Additionally, data on average distance to hospital, school, childcare, and place of employment may not be readily available, and it is uncertain whether these could be easily integrated into national data collection schemes.

Unfortunately, the conceptual validity of the indicator [number:1000 persons with access to public transportation](#) maybe flawed. First, there is question whether this indicator can be justifiably argued to measure housing adequacy, although there may be, at least in theory, a potential relationship between the two. Second, this indicator may not work well across different countries, and may not be methodologically reliable.

With regard to the first two indicators, measuring proximity to hazardous site, it remains unclear whether this indicator can be adequately utilised for accurate data collection due to its potential ambiguity. The second indicator was selected by the recent ‘Expert Group Meeting on Urban Indicators’, which agreed that the cut-off point might be subject to local variations, e.g. the potential danger from a hazardous site varies considerably depending of the nature of the hazard.⁶ Yet, until these methodological issues can be better addressed, location as a measure of housing adequacy has been excluded from the present set of housing rights indicators. The ultimate question of whether a location indicator can and should be included in the final set may be a question for later consideration.

III.A.7. Housing adequacy: Cultural adequacy

- [Presence of national legislation ensuring local community involvement in development of housing policies, especially as related to minority racial and ethnic groups, including indigenous groups](#)

Pros and cons

Cultural adequacy may be the most difficult component of housing adequacy to measure using quantitative methodologies. While presence of national legislation ensuring local community involvement in development of housing policies has been suggested as a potential indicator, it is unclear whether this indicator would be valid, both conceptually and statistically. Because ‘cultural adequacy’ is in many ways a subjective and culture-specific criteria which assesses how one feels about the place where one lives, and whether the place where one lives facilitates or impedes one’s cultural life, it may be that qualitative methodologies are better suited to address these questions. For these reasons, it is suggested that, unless a better quantitative measure for cultural adequacy can be devised, this sub-element cannot accurately be measured by the set of housing rights indicators.

III.A.8. Scale and scope of forced eviction

- [Number:1000 households forcibly evicted within the past 12 months](#)
- [Number:1000 displaced persons](#)

Pros and cons

Forced eviction is a crucial component of housing rights as this element addresses the basic security of one’s home. Yet, it should be noted that the scale and scope of forced eviction might also be related to the status of legal security of tenure as well as to the scale and scope of homelessness. This may be problematic in that different indicators within the set may in fact be duplicative. Statistical experts will have to be consulted in order to ensure that the set

6. Ibid.

of indicators is not flawed due to the inclusion of confounding measures related to these three elements.

With regard to the specific measures listed above, both measures offer strong indications of the scale and scope of forced eviction, and in some cases, both measures may be significantly related to each other, as in, for example, situations of internal armed conflict. As such, in addition to the security of tenure indicators highlighted above, it is recommended that both of these original indicators also be included in the set of indicators as measures of the scale and scope of forced eviction, if possible.

- Number:1000 households forcibly evicted within the past 12 months; and
- Number:1000 displaced persons.

III.A.9. Scale and scope of homelessness

- Number:1000 homeless persons using number of people who are homeless at any time during the past 12 months (also referred to as period prevalence counts)
- Homeless shelter beds per homeless person
- Number:1000 persons squatting using number of people who are squatting at any time during the past 12 months (also referred to as period prevalence counts)
- Number:1000 squatter occupied buildings
- Existence of national policy which allows for the regularisation of squatter settlements and squatter occupied buildings

Pros and cons

Homelessness represents a gross violation of housing rights and homeless persons represent the most vulnerable of those living in housing poverty. Yet, homelessness is notoriously difficult to quantify, and oftentimes governments and homeless advocates offer markedly different statistics on the prevalence of homelessness within a given country. Because homeless persons by definition lack a permanent place in which to live, there are extremely difficult to count with any degree of accuracy. Similarly, squatters, while they may have some degree of semi-permanent housing through their occupation of abandoned buildings, also live in a precarious and fluid housing situation making them difficult to count.

The preferred method for counting homeless persons, however, is referred to as period prevalence counts. There are basically two ways in which homeless persons are counted, e.g. based upon the number of homeless persons on a given night (point prevalence), or based upon the number of persons who experience homelessness at any point within the year (period prevalence). Because people may move in and out of homelessness over time, point prevalence counts may obscure the true rate of homelessness within a given society as they only measure who is homeless today, and not who was homeless yesterday and who will become homeless tomorrow. Therefore, if data can be obtained, the most desirable indicator for homelessness would be the first one presented in the list above, that is, [number:1000 homeless persons using number of people who are homeless at any time during the past 12 months](#) (as calculated from the date of measurement). Similarly, while [homeless shelter beds per homeless person](#) may address the resources available to the homeless, it may not always provide a good measure of the scale and scope of homelessness itself.

The last three indicators listed (e.g. [number:1000 persons squatting using number of people who are squatting at any time during the past 12 months](#); [number:1000 squatter occupied buildings](#) and [existence of national policy which allows for the regularisation of squatter settlements and squatter occupied buildings](#)) all provide useful information. It is unclear, however, whether specific information on squatting is necessary for inclusion within

the set of indicators. Theoretically, squatters would be included within the overall numbers of homeless where appropriate, and as such, it may be duplicative to make both counts. Moreover, the inclusion of squatters may also be duplicative with respect to the housing rights element of security of tenure.

Rather, data on homelessness may be disaggregated according to living arrangement, whether it is squatting in an abandoned building, living in a shelter, or living out on the street. With this understanding, it is suggested that the following indicator be used to access the scale and scope of homelessness:

- **Number:1000 homeless persons using number of people who are homeless at any time during the past 12 months.**

III.A.10. Rights to non-discrimination and equality

- **Women’s recognised legal right to property inheritance and ownership [CHR res. 2001/13]**
- **Presence of national legislation forbidding discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status [ICESCR Art. 2(2)]**
- **Presence of constitutional clause or national legislation ensuring the equal right of men and women to the enjoyment of all housing rights [ICESCR Art. 3]**

Pros and cons

Non-discrimination and equality in the area of housing rights is essential to ensuring that all persons enjoy an adequate standard of living. Discrimination based on gender, race or ethnicity, nationality, age or any other criteria constitutes a violation of the most basic tenants of international human rights law, which affirm that all persons are equal in dignity and rights.

While these indicators are only meant to provide information on the existence of legal protections against discrimination in the area of housing, and thereby do not provide information on the *de facto* situation with respect to discrimination in housing rights, this information can nonetheless be borne out through the disaggregation of data as previously discussed.

With respect to consideration of the specific indicators, it may be noted that the second indicator listed would provide the most holistic account on the status of legal protections forbidding discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The other two indicators, women’s recognised legal right to property inheritance and ownership, and presence of a constitutional clause or national legislation ensuring the equal right of men and women to the enjoyment of all housing rights, respectively, specifically address the status of women’s equality with respect to housing rights. Yet, in terms of simplifying things a bit, it should be noted that the third indicator should also encompass the specific provision on ownership and inheritance addressed by the first. Therefore, it should be sufficient to only include the third indicator, which addresses the equal right of men and women to the enjoyment of all housing rights, with the understanding that this should also cover the rights to equal ownership and inheritance.

The reasons for using a specific indicator on the equal right of men and women to the enjoyment of all housing rights as well as the indicator which addresses protection against discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, are two-fold. First, these are two separate provisions which are clearly, and distinctly, stipulated under the ICESCR (in Article 2(2) and 3, respectively). As such, measuring both would address state compliance with two separate provisions of the Covenant as well as with customary

international human rights law, more generally. Second, there is a subtle, yet significant conceptual distinction between ‘protection against discrimination’ and ‘ensuring the equal right of men and women to the enjoyment of all housing rights.’ Namely, the former implies a negative obligation that the state must not discriminate on the basis of gender, while the second implies a positive obligation in that states must take appropriate actions to ensure the equal enjoyment of these rights for men and women. As such, neither of these two indicators can stand in place of the other, and both should be included when measuring the right to non-discrimination as it is related to housing rights. Therefore, it is suggested that the following two indicators be considered:

- Presence of national legislation forbidding discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status [ICESCR Art. 2(2)]; and
- Presence of constitutional clause or national legislation ensuring the equal right of men and women to the enjoyment of all housing rights [ICESCR Art. 3].

III.A.11. National legal protection: National legislation

- Presence of national legislation recognising the right to adequate housing
- Presence of national housing institutions

Pros and cons

National legislation is a straightforward element of housing rights, which can be measured most directly by using the first indicator, namely, presence of national legislation recognising the right to adequate housing. While several kinds of national legislative initiatives may be related to housing and housing rights issues, this indicator would simply measure whether there exists national legislation, which recognises a ‘right to housing’ or a ‘right to adequate housing,’ without qualification. While the second indicator, addressing presence of national housing institutions, may be related to the first, arguably there may be some problems in establishing conceptual validity of this indicator. That is, national housing institutions may or may not indicate the presence of national level legislation which recognises the right to adequate housing, and may not necessarily be charged with upholding housing rights, as they are defined within international human rights law, in all cases. Therefore, it is recommended that the following indicator be used to address national legislation:

- Presence of national legislation recognising the right to adequate housing.

III.A.12. National legal protection: Due process/legal remedies

- Presence of a legally specified notification period which must be observed before any eviction is carried out
- Presence of legal due process protections provided in all cases of eviction, including the right to have a case heard before an independent and impartial judicial body
- Availability of legal services provided to individuals at a low cost, i.e., legal aid
- The right to have legal representation provided in all evictions cases
- Presence of governmental offices to address housing rights issues, particularly violations and remedies

Pros and cons

Methodologically speaking, it would be much easier to collect data on the first three indicators, which address the existence of specific due process provisions in eviction cases. Yet, arguably, these indicators may overlap with previous indicators addressing security of tenure and scale and scope of forced eviction, and may be unnecessarily duplicative.

Measuring the ‘availability’ of legal services may be a bit more difficult in that several components must be measured including cost, availability, accessibility and quality of legal services, including free or low-cost legal aid. Because of the relative complexity in measuring ‘availability’ of legal services, it is suggested that data may be better collected on this issue by either a) constructing a more sensitive, multi-dimensional indicator, or b) using qualitative data collection methods to illicit more in-depth data which can more satisfactorily address the question of availability and adequacy of legal services as they are related to issues of protecting housing rights within national legal systems.

Because these indicators may be duplicative of other components of the set of housing rights indicators (as with eviction procedures), or may require a more detailed construction (as with availability of legal services), at this time there is no suggested indicator to measure due process and legal remedies with regard to housing rights. These issues may be addressed in more detail during consultation, in order to determine whether inclusion of indicators on due process and existence of legal remedies would in fact be of value to include within the set of indicators. Upon first glance, it seems appropriate to only include one indicator under this sub-element, namely:

- Presence of governmental offices to address housing rights issues particularly violations and remedies

III.A.13. Acceptance of international standards

- Ratification of, or accession to, the International Covenant on Economic, Social and Cultural Rights;
- Regular reporting to the Committee on Economic, Social and Cultural Rights;
- Ratification of, or accession to, the International Convention on the Elimination of All Forms of Racial Discrimination;
- Ratification of, or accession to, the Convention on the Elimination of All Forms of Discrimination against Women;
- Ratification of, or accession to, the Convention on the Rights of the Child; and
- Ratification of, or accession to, regional Human Rights Conventions, as applicable (Europe, Africa, Americas)

Pros and cons

As with the presence of national legislation, the indicators measuring acceptance of international standards are straightforward, as this element of ‘housing rights’ is similarly easily quantifiable and the data are readily available. From the list of indicators provided above, the first two, ratification of or accession to the ICESCR, and regular reporting to the Committee on Economic, Social and Cultural Rights are perhaps the most directly related to measuring the status of housing rights as a whole. While other Conventions and similar international and regional human rights treaties may also address the right to housing for specific groups or within a particular region, it is the ICESCR which most comprehensively sets forth and aims to protect this right for everyone, everywhere. Therefore, as a measure of acceptance of international standards, ratification of or accession to the ICESCR and regular reporting to the accompanying Committee should be sufficient indicators. Thereby, it is suggested that the following indicators be chosen from those listed above:

- Ratification of, or accession to, the International Covenant on Economic, Social and Cultural Rights ;and
- Regular reporting to the Committee on Economic, Social and Cultural Rights.

III.A.14. Progressiveness

The concept of progressive realisation is another aspect of monitoring and evaluation of progress in the realisation of housing rights, which may be difficult to measure quantitatively. This is especially the case currently, as there exists no means by which to accurately compare two points in time, especially with regard to the status of housing rights as a whole. While it may be possible to measure, say, the adoption of housing rights laws over time, or the expenditure of a given state on housing rights overtime, there are difficulties in measuring change, especially complex change, accurately if one does not use an instrument which is standardised at all points in time. This is the best way to ensure the regularisation and comparability of the data. Indeed, this is one of the many reasons why the development of a set of housing rights indicators would be so advantageous, because, once regular data collection and analysis cycles begin there would be a sound mechanism by which to address the question of progressive realisation of housing rights and a methodologically defensible way by which to compare two points in time.

For the time being, progressive realisation cannot be adequately or accurately measured. Yet, once the set of housing rights indicators becomes regularised, it can be used to measure progressive realisation, simply by comparing scores over time.

III.A.15. Summary

The list of 57 potential indicators has now been narrowed down to 17 suggested indicators, which are presented below in a revised grouping. It will become more evident once the set of housing rights indicators begins to take on a clearer form whether all of these indicators are necessary, or whether different or fewer indicators would be more useful. For the purposes of the current discussion, however, the following indicators are suggested for a more detailed consideration:

(1) Housing adequacy

- Number:1000 households with potable water
- Number:1000 households with sanitation facilities
- Median household monthly housing payment/ Median household monthly income (to be calculated separately according to income distribution by quintile, i.e. for the poorest 20% of the population up through the wealthiest 20% of the population).
- Number: 1000 households with more than 2 persons per room
- Number: 1000 households living in temporary/ dilapidated structures
- Presence of national legislation ensuring accessibility for persons with disabilities to multi-unit residential buildings

(2) Security of tenure/ scale and scope of forced eviction

- Number:1000 displaced persons
- Number:1000 households forcibly evicted within the past 12 months
- Number:1000 households with legally enforceable contractual, statutory or other protections providing legal due process with respect to eviction
- Number:1000 persons living in informal settlements

(3) Scale and scope of homelessness

- Number:1000 homeless persons using number of people who are homeless at any time during the past 12 months

(4) Rights to non-discrimination and equality

- Presence of national legislation forbidding discrimination in housing on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

- Presence of constitutional clause or national legislation ensuring the equal right of men and women to the enjoyment of all housing rights

(5) National legal protection

- Presence of national legislation recognising the right to adequate housing
- Presence of governmental offices to address housing rights issues, particularly violations and remedies

(6) Acceptance of international standards

- Ratification of, or accession to, the International Covenant on Economic, Social and Cultural Rights
- Regular reporting to the Committee on Economic, Social and Cultural Rights

III.B. Clarifying operational definitions

In order to ensure that the data are collected in a standardised fashion, operational definitions for specific terms must be clearly established and agreed upon. Annex I of this document provides suggested operational definitions which may be considered for the general construction of the set of housing rights indicators.

There are several reasons why operational definitions are needed. The task of constructing appropriate operational definitions is perhaps much more important than it might otherwise seem. Operational definitions delineate the content and limits of the indicators; they are, in many ways, the integrity of the set of indicators itself. Operational definitions must be carefully defined, using clear and objective logic, sensitive both to the core content of what is being measured, as well as to the specific methodologies that will be employed.

First and foremost, operational definitions clarify terms and concepts, which might otherwise be subject to varying interpretation. For example, the very basic term ‘household’ may have a different meaning within different contexts. A household in one context may constitute a legally recognised family living together in one home, or in another case may mean non-related persons living together in a residential unit, or in yet another case may refer to the physical structure in which persons live. Because the set of housing rights indicators will be used to collect data on and within a number of countries, it is critical to ensure that the data are consistently measured and compiled from one place to another. Therefore, it must be made very clear *what* information should and should not be collected, as well as *how* information should be collected, with regard to every given indicator. This standardisation is critical to both cross-country comparisons as well as single-case longitudinal comparisons.

Second, operational definitions must be provided so that persons using the information provided by the set of indicators could clearly know the parameters of what this approach does and does not measure, and how the housing rights indicators define key terms. The construction of the set of indicators should be transparent to those using the information. This also helps to ensure that the data are understood and invoked properly when they are being used to inform specific policies or advocacy initiatives. This consideration points to the need to ensure that the operational definitions be easily understandable, clear and accessible to practitioners.

Third, operational definitions are essential to ensuring the validity of the set of indicators itself. If the operational definitions are significantly flawed or incomplete, the validity of the entire instrument can be compromised. For example, one of the suggested indicators listed above would measure **number: 1000 homeless persons using number of people who are homeless at any time during the past 12 months**. Yet, if ‘homeless person’ is operationally defined as someone who does not have legal title or possession to the house in which they reside, this drastically changes the nature of the indicator, which, while ostensibly claiming to measure scale and scope of homelessness would actually serve to measure security of tenure.

Therefore, operational definitions must also be constructed to capture the essential *conceptual elements* of the actual phenomenon, which one is trying to measure. Homeless persons are conceptually distinct from persons living without security of tenure, and it is these kinds of subtle, technical distinctions which operational definitions must take into account and clarify.

It is neither necessary nor desirable at this point to go into a detailed analysis of potential and competing operational definitions for each indicator. While operational definitions should certainly be chosen with the same level of care as are the indicators themselves, it is expected that housing rights experts will share, at least to some degree, a common professional basis on which operational definitions can be agreed upon with relative ease. Annex I of this report contains an alphabetised glossary of terms which may be used by the set of indicators, such as ‘homeless person’ and ‘informal settlement,’ and provides some suggested operational definitions for these terms which can serve as a basis for future discussion.

III.C. Weights and measurements

The question of measurements in the housing rights field is a complicated one. Despite this, all of the indicators that have been thus far suggested provide for the reporting of data in one of two ways. First, data may be reported numerically:

- as a number: 1000, as with ‘number: 1000 households forcibly evicted’;
- as a numerical average, as with ‘Average number of square metres/ person/ household’; or
- as a ratio, as with ‘median household monthly housing payment’/ ‘median household monthly income’.

In order to facilitate the comparison between the different elements and indicators in the set of housing rights indicators, data on indicators which are collected numerically using different methods (i.e., ratio versus number: 1000) should be standardised.

Second, data may be reported non-numerically, as for example the indicator which measures ‘presence of national legislation recognising the right to housing.’ Data in this instance would be collected as either a ‘yes’ or a ‘no,’ or potentially on a scale which allows for a more refined gradation (i.e., ‘yes’ or ‘no’ or ‘in certain cases’). In any case, the data collected should be coded so that it can be statistically analysed, but this can be easily accomplished by translating the data into numerical terms by simply coding, for example, ‘yes’=‘1’ and ‘no’=‘0’. Using this simple technique, all the data in the set of indicators can be represented numerically.

The more specific consideration of weights and measurements is a question that is best addressed by statisticians, who should be extensively consulted in order to make sure that the set of housing rights indicators is statistically and methodologically sound. For now, a few issues are noted which may potentially be considered as the components of the set of indicators continues to develop.

There remain six ‘housing rights’ elements: housing adequacy; legal security of tenure and scale and scope of forced eviction; scale and scope of homelessness; the rights to non-discrimination and equality; national legal protection and acceptance of international standards. There are 17 indicators in total in those six elements.

The six ‘housing rights’ elements can, in theory, also be grouped into the two broader categories of ‘**indicators of political will and action**’ (i.e., housing adequacy, legal security of tenure and scale and scope of forced eviction, scale and scope of homelessness) and ‘**indicators of legal commitments**,’ (i.e., the right to non-discrimination, national legal protection and acceptance of international standards). In order to facilitate the analysis of the data collected through the set of housing rights indicators, it may be appropriate to decide on

the weight allocated to each of the housing rights elements and to each indicator. Such a decision is not required at the present stage, but it would be if the set of indicators at a future stage would lead to the development of a 'housing rights index'. The following discussion is thus primarily essential within the framework of a potential future development of a 'housing rights index'. It is, however, important to note that a clarification of the issues raised below, will also facilitate the analysis of data collected on individual indicators in the short term.

Starting from an initial assumption that it may be appropriate that the two broad categories should be given equal weight within the set of indicators, and that each individual element should comprise equal portions therein. In this connection, however, it is important to note that, from a statistical point of view, difficulties that may arise due to the multiple measurements of related elements, including security of tenure, displacement, forced eviction and homelessness. While each of these elements is conceptually distinct, it may be that the data collected in fact show a high degree of correlation between what are intended to be separate measures. This may suggest that these measures should be weighted less, to avoid tipping the balance of the set of indicators toward over-measuring security of tenure and related issues. This issue should be dealt with in more detail by statistical experts.

Additionally, for each housing rights element, which has been suggested, there are varying numbers of indicators. Not only must the issue of weights **between** different elements be considered, so too must the issue of weights **within** different elements, namely should individual indicators also be weighted? These are issues which need special consideration, and which cannot be wholly addressed in this report, as there must be additional input from other experts who are knowledgeable in such techniques and who are more sensitive to these complex methodological issues. For now, however, it can generally be acknowledged that eventually it must be decided whether all six elements receive an equal weight within the framework of the overall set of indicators and in an overall evaluation, and also, whether each **indicator** receives the same weight within the framework of the overall element. For example, as the housing adequacy element has six indicators, it must be decided whether each indicator therein receives 1/6 of the sum value of the overall element, and also whether the sum value of housing adequacy represents 1/6 the value of all elements in the final set of housing rights indicators.

These weights can, however, be varied according to conceptual justifications and do not have to directly represent an equitable ratio. For example, it may be decided that housing adequacy, national legal protection and acceptance of international standards should be weighted more heavily than security of tenure and scale and scope of forced eviction, scale and scope of homelessness and non-discrimination. Using this model, the first three elements could be weighted up as 1/4 each rather than 1/6 each, and the remaining three elements could be weighted down as 1/12 each rather than as 1/6 each. Similarly, the indicators that comprise the housing adequacy element can also be weighted.

These are inevitably some of the more difficult and nuanced issues, which will have to be addressed as the set of housing rights indicators is further developed. These issues, however, must be explored in partnership between statisticians and housing rights experts so that the indicators remain statistically valid, conceptually relevant and methodologically well designed. This partnership is critical because many housing rights experts may not have a sophisticated understanding of the intricacies of research design and the technical requirements of statistical analysis. Similarly, many statisticians may lack the relevant housing rights background to adequately judge the conceptual significance of different components of the set of housing rights indicators.

IV. Modalities for data collection

IV.A. Data collection alternatives and considerations

Modalities for data collection are a complicated question, especially within the context of international research. How can data on specific indicators be collected, and how should they be aggregated? How can quality of data inputs be ensured? These are some of the questions that require further clarification, and which will be explored briefly in this chapter.

Data on the specific housing rights indicators may be collected in much the same way as are much of United Nations data regarding socio-economic development, namely as they are directly reported to the United Nations by governments and government agencies. Using this method, governments would be responsible for collecting housing rights related data on the specific indicators requested, and then send this information on to the UNHRP – or to a partner organization/entity designated to undertake this task on behalf of the UNHRP – in some sort of regularised format, perhaps by using a detailed questionnaire which is provided to them by the UNHRP. Once the raw data has been provided by participating governments, the UNHRP could then proceed to aggregate the data as appropriate, supplementing it with other data obtained from other United Nations agencies. Once a complete data set has been collected, the UNHRP can proceed to the next steps of coding, entering, analysing and, ultimately, reporting the final results. Such a system would inevitably necessitate a close partnership between the UNHRP and individual governments, as it would be critical to have as many countries as possible participate in such a global survey on housing rights. Since providing national statistics for the set of indicators would have to be voluntary, governments must be persuaded to participate. Such broad participation is needed to provide an accurate understanding of the status of housing rights, as it stands world-wide, and would help to ensure the most complete data sets possible.

Such a system would also necessitate that the UNHRP, or a partner organization/entity assigned to assemble and analyse data on its behalf, must develop the capacity and technical knowledge to handle this kind of massive, international quantitative research project. This task would require a team of experts, whose sole purpose it would be to deal with the logistical, technical, and conceptual complexities of turning the set of housing rights indicators from an idea on paper into a reality. This is an extremely valuable, yet understandably formidable task.

Working with international data is always challenging, because even if governments do agree to participate in the data collection process, the standardisation of the data must be ensured. Standardisation directly affects the quality of the data collected for the set of housing rights indicators, in that it provides for the reporting of comparable data. Yet, too much rigidity can also compromise the validity of the indicators by overlooking substantive similarities across different housing systems. For example, the indicator addressing legal security of tenure, or ‘number: 1000 households with legally enforceable contractual, statutory or other protections providing legal due process with respect to eviction’, may need to be adjusted within different legal contexts to actually capture levels of security of tenure. There is some space to do this if the indicator specifies ‘or other protections providing legal due process,’ with respect to eviction and the phrase ‘other protections’ may encompass the relevant variation. As such, it is important that each indicator be flexible enough to deal with cross-national variation of this type, while at the same time being able to accurately measure the underlying concept for which it is designed. At the same time, phrases such as ‘other protections,’ while aiming to be inclusive, must also clearly delineate what does and does not constitute legal security of tenure.

In practical terms, this means that the indicators must be flexible enough to incorporate differences in national housing systems, in order to accurately reflect the status of housing rights. The United Nations Statistical Commission has frequently reiterated the importance of a non-directive approach to indicators, focusing on possibilities and alternatives to suit particular circumstances rather than a single fixed set of universally valid indicators. For example, in the mid-1950s, a United Nations Committee of Experts on the International Definition and Measurement of Standards and Levels of Living found that the development of “*a single unified index of the level of living was neither possible nor desirable, for purposes of international comparison under present circumstances.*”¹

Some have also argued that the problem with universality suggests that there should always be a cross-section of indicators available for use. All types of indicators possess validity to one extent or another, but their worth may be contingent upon the situation, right or place under examination. It is a careful balance, which must be struck, and some indicators will undoubtedly be more universally applicable than will others. Yet, fortunately, the problem of universality can also be partially addressed through the ways in which operational definitions are constructed, so that they are sensitive to cross-national difference, yet remain true to the core content of a given concept (please refer to Annex I).

Furthermore, data must also always be collected in a disaggregated manner, which addresses discrepancies in housing according to, *inter alia*, gender, race and ethnicity, age and income level. For every indicator, specific data on each of these groups should be sought and reported by governments. While for the purposes of analysis, this data may be aggregated to provide information on the general population, it is important for the set of indicators to acknowledge the existence of social inequalities as these inequalities may radically influence the character of the recommendations made based upon the research findings and may fundamentally change the ways in which the status of housing rights is understood with a given country. Similarly, while data may be aggregated to present information globally, it should also be presented specifically for each country, and, even more particularly, for specific social groups such as women, indigenous peoples, the elderly, racial and ethnic minorities, the poor, etc. This kind of contextualisation is necessary in order to gain an accurate view of housing rights. The set of indicators must allow the user to shift focus easily from the particular to the generalised, from intra-national inequalities, to international trends.

IV.B. Integration into population and housing census

While the set of housing rights indicators could stand alone as a separate entity, another possible data collection alternative would be to integrate these indicators into the United Nations Population and Housing Census. As it currently stands, the data for this Census are also provided to the United Nations by national governments. National population and housing censuses provide valuable statistics and indicators for assessing the situation of various specific population sectors, including data disaggregated by gender and age, as well as specific data on the homeless and on migrant populations. The Population and Housing Census also provides a mechanism for measuring ‘progressive realisation’ of housing rights, as this instrument provides for regular, periodic cycles of data collection which would allow for an analysis of change in indicator values over time.

The positive aspects of incorporating the set of housing rights indicators into an existing instrument such as the Population and Housing Census would be the regularisation of data

1. As quoted in United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, 6 July 1990, “Realisation of Economic, Social and Cultural Rights: Progress report prepared by Mr. Danilo Türk, Special Rapporteur,” UN Doc. E/CN.4/Sub.2/1990/19.

collection, and also, perhaps a greater willingness on the part of governments to provide the requested information, as they would have already agreed to participate in the Census. Expanding a pre-existing instrument should not change the integrity of the set of housing rights indicators in any significant way, as the set will still be comprised of the same indicators as it would otherwise be, and need not include all of the other information collected by the Census.

The negative aspects of such a plan, however, should also be considered. The UNHRP may wish to be the sole manager of the set of housing rights indicators as tools for monitoring and evaluation of progress in the realisation of housing rights. If the indicators formulated for this purpose were in fact subsumed within another instrument, as it would be by integrating it within the Census, this may mean that the UNHRP may be less able to exert direct control over the ultimate collection and analysis of the data. Any such collaboration would require close partnership between the international agencies involved, so that clear expectations may be established, and a clear working method devised.

For a variety of reasons, institutional, methodological and political, it may also be procedurally complicated to incorporate the housing rights indicators into the Population and Housing Census. Therefore, these questions need to be thoughtfully addressed by the relevant agencies to ensure that any co-operative arrangement would be beneficial to all parties concerned. In any case, it should be remembered that some data, which may be useful to include in the set of housing rights indicators, is already regularly collected through various channels and international organs within the United Nations system. In these cases, there is no reason to re-invent the wheel, so to speak, as this data can be easily shared and utilised. Before carrying out new data collection schemes, it would be important to know in more specific terms what data are collected, whether the mechanisms for the collection of this data can be easily broadened to include other indicators, and what new methods need to be developed so that new data can be gathered.

Similarly, as the UNHRP begins to consider data collection modalities in greater detail, they should draw upon the expertise of other United Nations agencies which already have a great deal of experience in implementing large data collection projects. The United Nations Development Programme (UNDP) and the World Health Organization (WHO), in particular, should be extensively consulted, as should other United Nations statistical experts. Their practical expertise and experience in the field of devising and utilising statistical methods to measure various aspects of the human condition could provide extremely useful in answering some of the more technical questions concerning modalities for data collection for large projects such as the set of housing rights indicators. To the extent possible, the UNHRP should also actively consult governmental agencies involved in large-scale national data collection, as well as housing rights NGOs, in order to ensure the practicability and relevance of the indicators.

IV.C. The role of governmental organisations

As noted above, much United Nations data regarding socio-economic development represents information directly reported by governments. It is likely that this would also be the data collection method used by the set of housing rights indicators, as it may be unworkable to use other means for data collection, which would have to provide for the gathering of very detailed national level data on several indicators, in multiple countries, all within a relatively short period of time. This would be especially true if the data for the set of indicators were collected annually, but in any case, data for all countries should be collected within a relatively narrow time frame to ensure the comparability of the data.

As such, using government data is uniquely advantageous in that it provides a way in which to collect data, which is expedient and relatively standardised. Yet, government data can also be problematic in that multiple national agencies are charged with collecting similar types of data. There may therefore be marked variation in the quality of the data collected as different countries may have varying levels of institutional capacity and technical expertise with regard to large data collection projects. It is important, therefore, to maintain close relationships with the relevant governmental institutions which collect housing data, or which will be given the task of collecting housing data. There must be some sort of institutional oversight on the part of the UNHRP in this process, which would entail at the very least a policy of providing guidance to governments on the kinds of information being requested as well as answering any technical questions which may arise. This involves multiple tasks for the overseeing agency, in this case the UNHRP, which should be considered and planned for in advance. Ensuring that governments can come to the UNHRP for technical support may also help to ensure higher levels of government participation as any confusion about proper data collection methods or about the indicators themselves could be more readily addressed.

It is difficult to say whether governments would be reluctant to provide the specific data required by the set of housing rights indicators. This is another problem which will have to be strategically addressed, and perhaps the UNHRP and other relevant organisations, agencies and entities can already begin the process of lobbying individual governments, as well as United Nations organs such as the United Nations Commission on Human Rights to lend their support to this initiative. Tipping the balance of international opinion should not prove too difficult in this case and may be extremely useful in the end.

Despite the practical utility of using government data sources, there is some concern, especially in the human rights realm, that government data may be biased. Most likely, this bias may result in data, which minimises the scale and scope of housing rights violations. While there are only so many precautionary measures, which can be integrated into the indicators themselves, itself to ensure standardisation, data bias is a legitimate concern of which one should be aware. The UNHRP should provide guidelines and technical support to governments to ensure the integrity of data. Similarly, governments should provide clear information to the UNHRP explaining how data was collected.

IV.D. The role of non-governmental organisations

NGOs have a critical role to play in utilising and reviewing the set of housing rights indicators. Because of the potential drawbacks in using exclusively government-collected data, supplementary information from NGOs could provide a meaningful check on the figures provided by governments. Housing rights and homeless advocates in particular would be able to provide useful information on the accuracy of data provided by governments, and perhaps suggest alternative figures or data collection methods. At the very least, critiques from NGOs should be welcome, as they help to flag potential conceptual and methodological errors within the set of indicators.

It is unclear whether data from NGOs should be used by the set of indicators. In most cases, the answer should most likely be no, as opening the door to this kind of information would wreck havoc on basic standardisation requirements. Rather, NGOs can play a valuable role in ensuring that governments collect and report data in appropriate ways, perhaps most directly by lobbying their respective governments. Similarly, NGOs could provide some of the most insightful comments on the successes and limitation of the indicators, and could play a leading role in utilising the research findings so as to promote positive change within particular countries, and to hold countries accountable before international human rights

monitoring bodies such as the United Nations Committee on Economic, Social and Cultural Rights.

Indeed, the ultimate goal of the set of indicators must be the promotion and protection of housing rights. It is not enough for the indicators to serve a purely ‘academic’ function, that is, to collect and report data for its own sake. Rather, the most important reason for having a set of housing rights indicators is the role that this instrument could play in human rights advocacy. Not only would the use of the set of indicators aid in raising the profile of international housing rights, it would also provide the basis for devising informed policy measures aimed at promoting and protecting housing rights. Therefore, it should not be assumed that the most important way to participate in developing a set of housing rights indicators by providing data. As critical as this is, the indicators must be used by advocates, and useful to advocates, if it is to live up to its promise.

V. Housing rights indicators and states parties reporting obligations under the ICESCR

One important function of the set of housing rights indicators is related to the reporting obligations of States under international human rights treaties, most notably the ICESCR. The indicators could be of use not only to the Committee which oversees State Party compliance with the provisions of the ICESCR, but could also potentially assist governments themselves as they prepare their reports and implement the Committee's recommendations.

States Parties to the ICESCR voluntarily bind themselves to meet several legal obligations aimed at securing economic, social and cultural rights, including the right to adequate housing. For example, as previously mentioned, Article 2(1) of the ICESCR is of central importance for determining what governments must do, and what they should refrain from doing, in the process leading to the society-wide enjoyment of the rights found in the Covenant, including the right to adequate housing.¹ Again, this article reads:

Each state party to the present Covenant undertakes to take steps individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative means.

Additionally, States Parties also agree to participate in an international monitoring system through which they agree to provide periodic reports to the overseeing Committee, so that their progress can be recorded, and so that the Committee can make informed recommendations to the government under review. This international transparency is critical to the promotion of housing rights, as it allows the Committee to address country compliance with the ICESCR in an objective and detailed way, at times analysing contrasting information from various international, governmental and non-governmental sources.

V.A. State party reporting obligations and procedures²

Article 16(1) of the ICESCR requires any government that has ratified or acceded to the Covenant to provide reports “*on the measures [it has] adopted and the progress made in achieving the observance of the rights recognized [in the ICESCR].*” Additionally, Article 17 (2 & 3) stipulates that –

“Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant” [and,]

“Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.”

The process for submitting a report to the Committee is generally the same in all cases, and is briefly summarised in this chapter.

After trying out various reporting cycles, the Economic and Social Council decided that governments should submit one global report (addressing its performance under every provision of the ICESCR) within two years of ratifying the ICESCR, and then at five year

1. The Human Right to Adequate Housing, Fact Sheet 21, Centre for Human Rights, Geneva, December 1993.
2. Revised general guidelines regarding the form and contents of reports to be submitted by states parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: 17/06/91. E/C.12/1991/1 (Basic Reference Document).

intervals thereafter. In order to help States Parties meet their reporting obligation, the Committee has also provided detailed reporting guidelines that describe the kinds of information governments should provide in their reports.

After submitting its written report, a government will be invited to orally present the report in the first meeting of the Committee where the report is publicly examined. A representative of the government, or alternatively a group of representatives, is asked to make brief introductory comments and introduce its written replies to the List of Issues drawn up months before by the Pre-Sessional Working Group. Ideally, the State Party provides its written response to the List of Issues to the Committee prior to the oral review of the State Party. The Committee then reviews the response to the List of Issues article by article, asking the government representatives to respond to the specific questions of the Committee.

At its next periodic report, the government will be expected to explain the steps it has taken to implement the recommendations in the Concluding Observations issued after its previous meeting with the Committee. The Committee may also ask the government to provide supplemental information, for example additional statistical data, before its next scheduled periodic report.

This reporting mechanism is the heart of the Committee's monitoring processes. Submission of the report triggers the Committee to schedule hearings about a country and to write Concluding Observations about a country's performance under the ICESCR. These reports provide valuable information and advocacy tools. Copies of these reports are available either from the Committee Secretary, the Committee's or United Nations' web-sites or from a country's Ministry of Foreign Affairs.

V.B. Integrating the housing rights indicators into the reporting and monitoring processes

The usefulness of the set of housing rights indicators would be three-fold in this reporting process –

- facilitating the work of the Committee in reviewing country reports and issuing Concluding Observations;
- enhancing the legitimacy of reports presented by governments; and
- providing a useful advocacy tool to participating NGOs.

First, the set of housing rights indicators would provide the Committee with extremely valuable, objective and easily accessible information regarding the status of housing rights within a given country. This information would be particularly useful as the Committee prepares to draft its Concluding Observations with regard to a particular state.³ Potentially, the use of the housing rights indicators in this context could directly influence the recommendations made by the Committee to a government vis-à-vis its national policies and practices with regard to housing rights. The housing rights indicators could also help to facilitate a dialogue between the Committee and a State Party, helping to inform and frame the Committee's initial inquiries.

Similarly, from the point of view of objectivity, the findings of the set of housing rights indicators may strengthen the foundations on which the Committee must make its recommendations by providing an objective statistic on the status of housing rights within a given country. As it now stands, the Committee must utilise information of varying quality provided to it from governmental and non-governmental sources. As government compliance with

3. The set of indicators could provide a similar use with respect to other international treaty monitoring bodies, such as the United Nations Committee on the Elimination of Racial Discrimination, among others.

human rights obligations can be a politically charged and controversial area, the set of indicators would provide a relatively impartial and neutral measure of compliance with one of the fundamental provisions of the ICESCR. This would be of great use to the Committee, as the set of indicators not only provides an unbiased justification by which to devise specific recommendations, but also, the information provided by the indicators is perhaps more straightforward and understandable than would be other kinds of more narrative-style reporting.

The indicators would also provide detailed information which would also be relevant to the Committee, including specific information on the different elements of housing rights, such as housing adequacy, scale and scope of forced eviction, etc.; the status of housing rights for different social sectors, including women, racial and ethnic minorities, the elderly, the poor, etc.; and, in time, the indicators would also provide very good information on the ‘progressive realisation’ of housing rights. All of this information would assist the Committee in understanding both the general housing situation within a given country, as well as alerting the Committee to specific areas of concern, such as women’s housing rights, or the adoption of retrogressive housing rights policies and practices.

Second, the indicators could also be of great use to governments as they prepare to present their reports to the Committee. The set of indicators would allow governments to assess their own level of compliance with the ICESCR, anticipate some of the Committee’s concerns, and highlight areas in which the government has been successful in securing housing rights. Just as the indicators would provide an unbiased resource to the Committee, so too would it provide the same resource to governments. If for example, a government received ‘good scores’ on the set of indicators, this would help the government to show that it, in fact, was taking effective steps to comply with its obligations under the ICESCR. Certainly, the situation would not be as affirming if the government received ‘poor ratings’ on the set of indicators; yet, governments in this situation can still utilise the set of indicators to show where their relative strong and weak points are with respect to housing rights. This information would allow governments in this situation to better prepare their reports and address the Committee’s concerns when they arise. Furthermore, because the indicators should also allow for a discussion of the ‘ability’ and ‘willingness’ of a state to ensure housing rights for its people, governments with ‘poor ratings’ on the set of indicators may also point to their high degree of willingness to protect housing rights.

Third, in order to ensure that the Committee is as well informed as possible, it also provides opportunities for NGOs to submit relevant information to it. NGOs may do so in writing at any time. The Committee’s pre-sessional working group is also open to the submission of information in person or in writing from any NGO, provided that it relates to matters on the agenda of the working group. In addition, the Committee sets aside part of the first afternoon at each of its sessions to enable representatives of NGOs to provide oral information. According to the guidelines established by the Committee, such information should:

- focus specifically on the provisions of the ICESCR;
- be of direct relevance to matters under consideration by the Committee;
- be reliable; and
- not be abusive.

References made by NGOs to the information provided by the set of housing rights indicators would certainly meet these basic requirements.⁴

4. Committee on Economic, Social and Cultural Rights, Report on the Twentieth and Twenty-First Sessions, E/2000/22, E/C.12/1999/11, paragraph 29. See also Committee on Economic, Social and Cultural Rights (1

NGOs have a vested interest in participating in the Committee's review procedure, in part because of the importance of the Concluding Observations, and specifically because the Concluding Observations frequently include recommendations to governments. These recommendations are not only influential because they send a clear message about what steps governments should take to increase their level of compliance with the ICESCR, but, they are also extremely valuable to NGOs as an advocacy tool. NGOs frequently use Concluding Observations as a means by which they can more effectively engage with governments and place pressure on governments for positive change.

NGOs may utilise the Concluding Observations in a number of innovative ways. For example, in many cases it is possible to argue that the international standards of the ICESCR as well as the specific recommendations of the Committee are binding law within domestic courts. Many litigators refer to international human rights treaties as well as the Committee's General Comments and Concluding Observations in their legal arguments to courts and other tribunals, highlighting the relevance of these documents to the particular case at hand. For example, a case of housing rights discrimination brought against the government may be bolstered by supporting evidence provided directly by the set of housing rights indicators or by a recommendation made by the Committee which may have itself been informed by the findings of the indicators. Similarly, NGOs and academics can also write briefs highlighting the international human rights angle in a case before a domestic court, and reference made to the indicators in housing rights cases could offer an important resource to advocates in these situations. The Committee's statements can also form the basis of legislative advocacy, especially when combined with effective media work used to raise public awareness and build popular support for domestic housing rights initiatives. Language from the ICESCR and from the Committee's Concluding Observations can be introduced into domestic legal initiatives, used to frame the relevant issues and provide a basis on which to take appropriate domestic legal action. Courts can also be encouraged to use the Committee's Concluding Observations and General Comments to interpret relevant statutes.

As such, from the point of view of NGOs, influencing the character of the Concluding Observations produced by the Committee could have a wide-ranging and positive impact toward the promotion and protection of housing rights in all parts of the world. Moreover, the set of housing rights indicators approach would be one more tool they could rely on to help them achieve that aim.

September 1993), Rules of Procedure of the Committee, E/C.12/1990/4/Rev.1 (Basic Reference Document), paragraph 69.

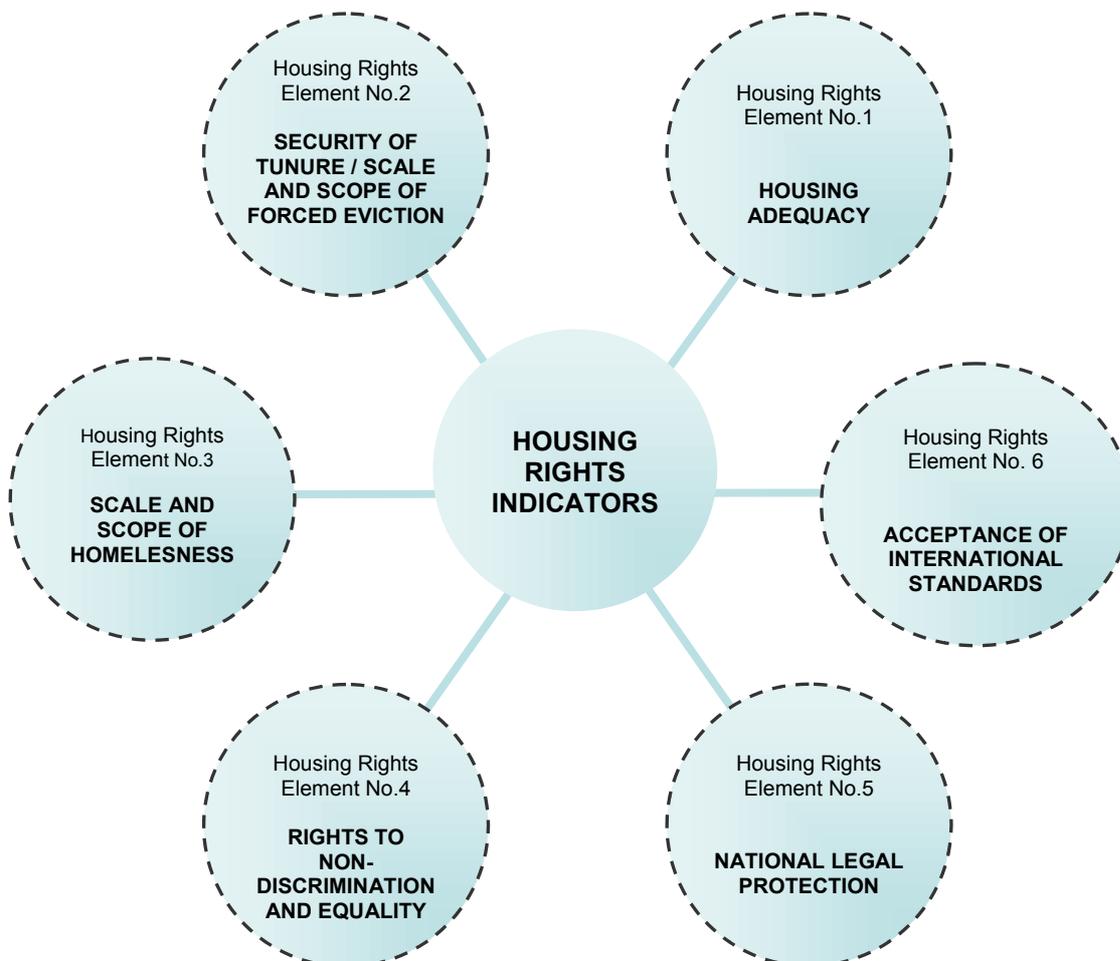
VI. Recommendations for the formulation of a set of housing rights indicators

Based on the above considerations and discussions, this chapter provides the preliminary proposal for the structure, elements and operations of the set of housing rights indicators. It should be kept in mind that while these proposals may serve as a basis for future discussion, they are not in any way meant to limit that discussion to what has been suggested here. Indeed, the creation of a set of housing rights indicators will no doubt entail a collaborative effort between multiple agencies and experts, and will involve an ongoing process of refinement, both conceptually and methodologically.

VI.A. Proposed construction of the set of housing rights indicators

The following diagrams depict the proposed construction of the set of indicators. Diagram 2 illustrates the six housing rights elements that comprise ‘housing rights’ and which have been discussed throughout this document. These six elements should form the foundation on which the set of housing rights indicators is ultimately built.

Diagram 2. The six main elements of the set of housing rights indicators

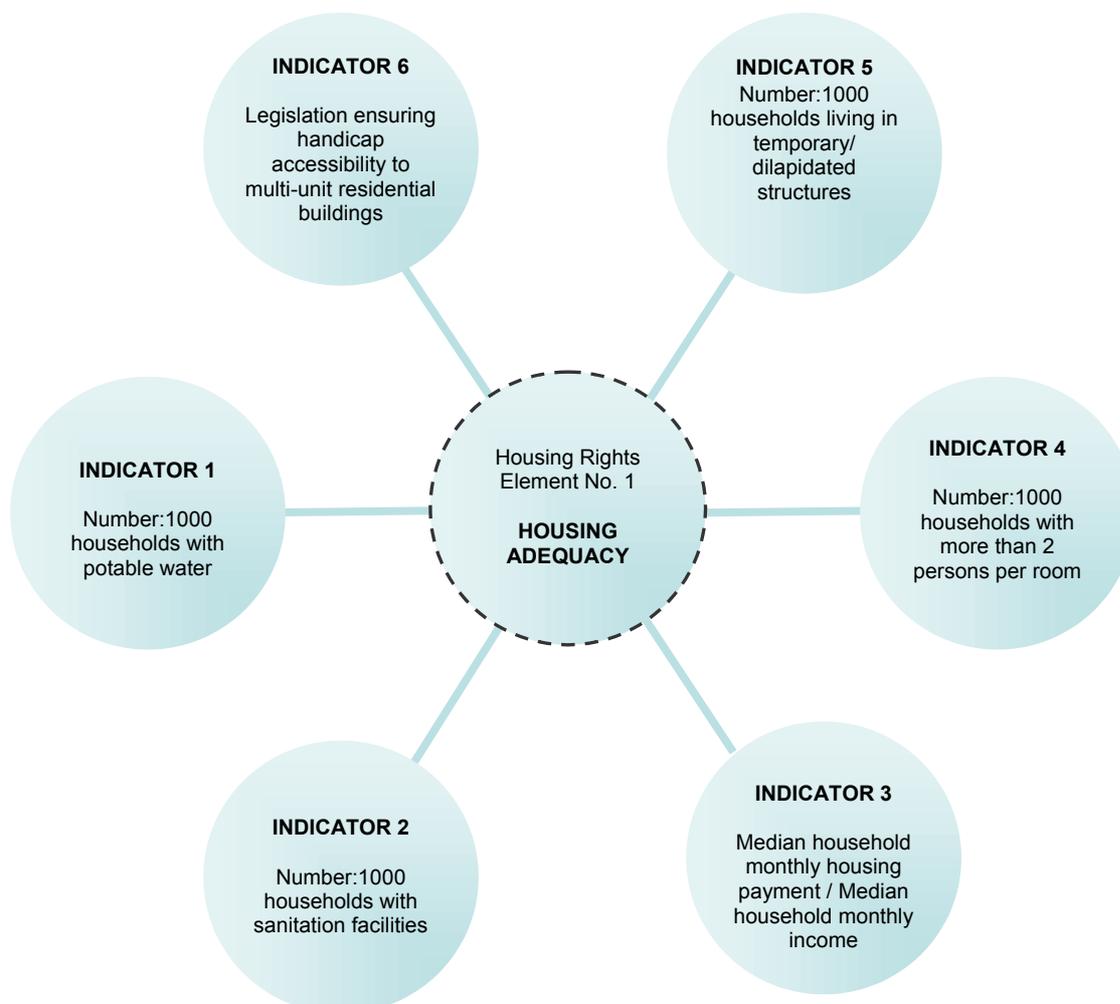


Each element, in turn, is accompanied by specific indicators. Taking one element at a time, the indicators used to measure the status of a particular housing rights element can be diagrammed.

Housing rights element no. 1: Housing adequacy

The first suggested element, ‘housing adequacy’ has five indicators, measuring availability of services, materials, facilities and infrastructure; affordability; habitability; and accessibility (see diagram 3). These indicators relate directly to General Comment No. 4 (see Annex II). While these specific indicators may or may not be included in the final set of the indicators, it is very important that ‘housing adequacy’ remain one of the core components of the set of indicators, as this element is essential to capturing the quality of housing and of housing security. In the lives of average people all over the world, the basic adequacy of one’s home is fundamental to their quality of life, their security and their day-to-day survival. Because ‘housing adequacy’ itself has many sub-parts, this element also has the most proposed indicators among all the suggested housing rights elements. However, this does not mean that the weight of ‘housing adequacy’ should overshadow other elements in a further analysis of the indicators. Statisticians can weigh each element according to its relevance and centrality vis-à-vis the overarching theme of housing rights.

Diagram 3. Indicators suggested for housing rights element no. 1: ‘Housing adequacy’

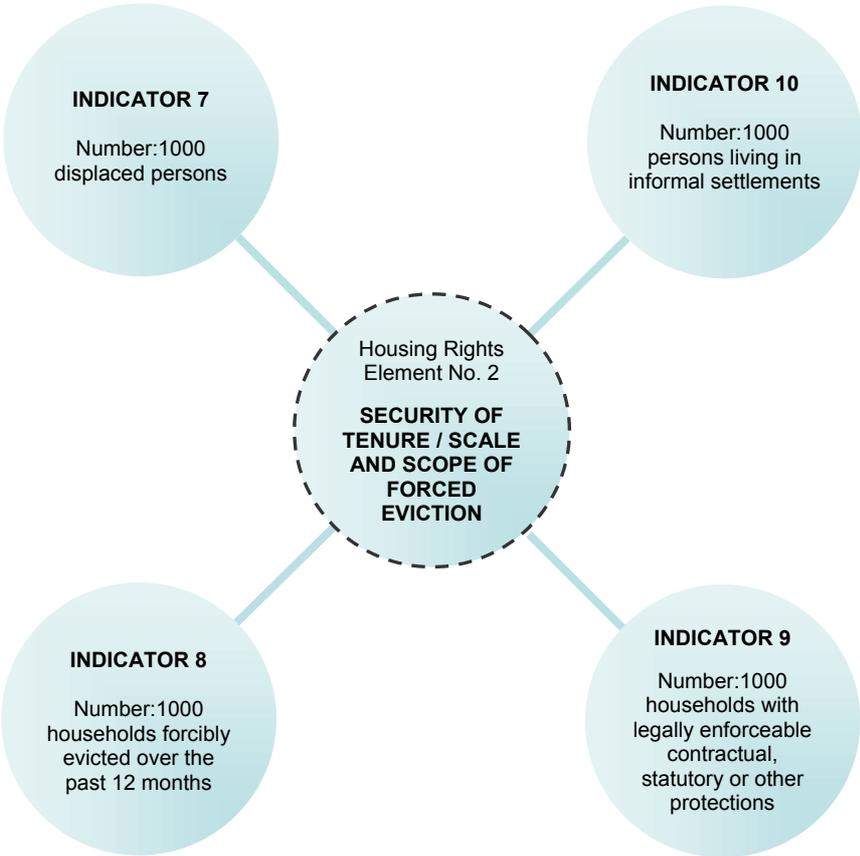


Housing rights element no. 2: Security of tenure / Scale and scope of forced eviction

The second proposed element, renamed ‘security of tenure/ scale and scope of forced eviction’, also captures a fundamental aspect of housing rights, namely the security of one’s home (see diagram 4). The Committee on Economic, Social and Cultural Rights considers

that instances of forced eviction are *prima facie* incompatible with the requirements of the ICESCR and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law (see Annexes II and III). As such, forced evictions violate both the letter and the spirit of international human rights law. In addition, this element is in line with UN-HABITAT’s Global Campaign for Secure Tenure, which is itself designed to take forward the commitment of Governments to providing adequate shelter for all, one of the two main themes of the Habitat Agenda. The Campaign identifies the provision of secure tenure as essential for a sustainable shelter strategy, and as a vital element in the promotion of housing rights. Including this element in the set of indicators could assist UN-HABITAT in implementing the Global Campaign for Secure Tenure, as the practice of forced eviction is one of the most egregious breaches of the right to housing, and the right to legal security of tenure.

Diagram 4. Indicators suggested for housing rights element no. 2: ‘Security of tenure/ scale and scope of forced evictions’



Housing rights element no. 3: Scale and scope of homelessness

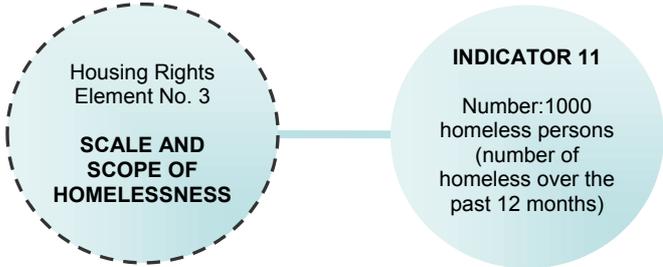
The third proposed housing rights element, ‘scale and scope of homelessness’, only has one corresponding indicator (see diagram 5). Levels of homelessness within a country can provide one good measure of the status of housing rights by offering information on the number of people who do not have regular access a place in which to live. People who are homeless are the most vulnerable of the housing poor, and high levels of homelessness indicate systemic problems in the area of protecting housing rights. Furthermore, homelessness may also be related to other issues measured by the set of indicators, such as affordability of housing and scale and scope of forced eviction. These overlapping issues should be kept in mind, as data collected on each of the indicators are analysed.

It should be said also that including a measure of homelessness in the set of indicators may also serve to assist advocates all over the world in their efforts to end homelessness within their respective communities and nations. Indeed, homelessness is a significant and chronic problem in many countries, including within many wealthy countries. As the National Alliance to End Homelessness (USA) has noted –

“While the systems can be changed to prevent homelessness and shorten the experience of homelessness, ultimately people will continue to be threatened with instability until the supply of affordable housing is increased; incomes of the poor are adequate to pay for necessities such as food, shelter and health care; and disadvantaged people can receive the services they need. Attempts to change the homeless assistance system must take place with the context of larger efforts to help very poor people.”

The set of housing rights indicators could provide a very valuable tool to homeless advocates by showing the status of one’s country’s rates of homelessness compared to countries at a similar level of socio-economic development, and by demonstrating how homelessness is related to other phenomenon, such as affordability and discrimination.

Diagram 5. Indicator suggested for housing rights element no. 3: ‘Scale and scope of homelessness’



Housing rights element no. 4: The rights to non-discrimination and equality

Moving on to the fourth housing rights element, the ‘rights to non-discrimination and equality’ (see diagram 6), it must be noted that women, children and racial and ethnic minorities, and other marginalised groups often make up the majority of the homeless and housing poor in many countries. Discrimination is in itself a human rights violation, and inevitably infringes on the enjoyment of one’s right to an adequate standard of living, in all respects, including housing. The principles of non-discrimination and equality have been well defined in international human rights law, and are cornerstone to the basic principles of human dignity and human equality. The rights to non-discrimination and equality have been articulated in several international human rights instruments, including the ICESCR. Under the ICESCR, States Parties not only have the obligation to not discriminate against persons on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, but also to ensure the equal right of men and women to the enjoyment of all housing rights. While not all States are Party to the ICESCR, and therefore may not be legally bound to abide by these provisions, the rights to non-discrimination and equality represent part of the core content of ‘housing rights.’ Because the impact of discrimination is overarching and affects all other aspects of housing rights, it should be included within the set of indicators as one of the main elements.

Diagram 6. Indicators suggested for housing rights element no. 4: ‘Rights to non-discrimination and equality’



Housing rights element no. 5: National legal protection

The fifth proposed housing rights element, ‘national legal protection’, underscores the need to have domestic implementation and protection in the area of housing rights (see diagram 7). As has been argued in this report, national legal protection is comprised of both national legislation and due process mechanisms. The Committee on Economic, Social and Cultural Rights has highlighted the importance of domestic implementation of international laws and standards, noting that:

“In general, legally binding international human rights standards should operate directly and immediately within the domestic legal system of each State party, thereby enabling individuals to seek enforcement of their rights before national courts and tribunals. The rule requiring the exhaustion of domestic remedies reinforces the primacy of national remedies in this respect. The existence and further development of international procedures for the pursuit of individual claims is important, but such procedures are ultimately only supplementary to effective national remedies.”¹

Diagram 7. Indicators suggested for housing rights element no. 5: ‘National legal protection’



It is proposed that two indicators be used to measure national legal protection, namely presence of national legislation recognising the right to adequate housing and presence of governmental office(s) dealing with specifically housing rights (such as receiving complaints on the violations of housing rights and facilitating remedies). While different legal systems may provide different kinds or levels of housing rights protection, the integration of housing

1. Committee on Economic, Social and Cultural Rights (3 December 1998), “General Comment 9: The Domestic Application of the Covenant,” UN Doc. E/C.12/1998/24. Available on-line at: <[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4ceb75c5492497d9802566d500516036?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4ceb75c5492497d9802566d500516036?Opendocument)>.

rights into the domestic legal system is essential to ensuring those rights in practice. This element also addresses a country’s ‘willingness’ to secure housing rights. While different levels of housing rights protections may be enshrined within domestic laws, the indicators could be adapted so as to scale different legal provisions either on a 1 to 3 or 1 to 5 numerical scale (less protection to more protection) or on a simple bifurcated scale, (yes/no legal protection).

Housing rights element no. 6: Acceptance of international standards

Housing rights element number 6, ‘acceptance of international standards,’ similarly addresses another component of a state’s willingness to observe and protect housing rights (see diagram 8). While several international instruments recognise the right to housing and to non-discrimination in housing for particular social groups, the ICESCR provides the most broad-based and authoritative protection vis-à-vis housing rights. For this reason, and for reasons of maintaining the simplicity of the set of indicators, it is suggested that the indicators for this element be limited to the ratification or accession status of a country with respect to the ICESCR, as well as the observance of reporting obligations to the Committee on Economic, Social and Cultural Rights for those countries who have ratified the ICESCR.

Diagram 8. Indicators suggested for housing rights element no. 6: ‘Acceptance of international standards’



Progressive realisation

As mentioned in earlier chapters, establishing a focus on ‘progressive realisation’ of housing rights is very important and the set of housing rights indicators can be a fundamental tool for this purpose. The second data collection cycle and cycles thereafter can well facilitate a measurement of change with respect to a country’s progressive realisation of housing rights. Progressive realisation is a concept which stems directly from international human rights law, which imposes an obligation upon states to move as expeditiously and effectively as possible towards the goal of ensuring economic, social and cultural rights, for its entire population, including the right to adequate housing. Inclusion of this focus within the set of indicators is a fundamental tool for monitoring and evaluation mechanism by which to track a country’s performance in ensuring housing rights over time, measuring both progressive and retrogressive developments.

VI.B. Other important issues to be considered

As has been mentioned in previous chapters, other issues must be addressed when constructing the set of housing rights indicators, including disparities in housing between different social groups and the conceptual distinction between a state’s ‘willingness’ and

‘ability’ to implement housing rights. As these issues have been addressed in some detail before, this section simply reiterates the central concerns, which should be considered.

First, with respect to measuring housing rights disparities between different social groups, it is critical that data be disaggregated so as to capture inequalities with regard to gender, age, income level, race and ethnicity. This is a critical task, because the sole use of aggregated data may yield misleading results, which entirely obscure the issue of discrimination and inequality in the area of housing rights. In particular, disaggregation of data should occur with respect to measurements of all of the components of adequate housing, security of tenure and scale and scope of forced eviction, and scale and scope of homelessness.

It deserves mention that the disaggregation of data in this way would be entirely consistent with UN-HABITAT’s strategic vision, which maintains that equity and social justice are used as basic principles underpinning the values and work of UN-HABITAT. This approach will align itself with one of the comparative advantages of the agency, which include its experience in dealing with issues of marginalization and social exclusion and would further strengthen the partnership-based approach in terms of which UN-HABITAT is a leading exponent within the United Nations system. The situation of women within a society should be used as a primary indication of the success of UN-HABITAT’s interventions, and as an explicit focus for its policy work. Similarly, the mission statement of the OHCHR states that –

“OHCHR bases itself on the principle that human rights are universal, indivisible, interdependent and interrelated. All rights civil, cultural, economic, political and social - should be given equal emphasis, and promoted and protected without any discrimination. The realisation and enjoyment of all rights for women and men must be ensured on a basis of equality.”

The international community now recognises that women’s lack of access to and control over land and property constitutes a violation of human rights and contributes significantly to women’s increasing poverty. In the fields of shelter, development and the urban environment, women are critical role-players in the application of good policy, and one of the best monitors of changing socio-economic relations. UN-HABITAT’s existing work has already demonstrated that, in the reduction of urban poverty, a focus on women has the most beneficial effect, and that more people are assisted out of poverty through such a focus. For all these reasons, specific information on the status of women’s housing rights should be collected to both inform UNHRP’s work and to empower other housing rights advocates.

An additional issue that needs to be thoughtfully considered is the possible gender bias in ‘head-of-household’ terminology. This is a concern because if the ‘head-of-the-household’ is defined as being either the person who legally has title of the home, or the person who brings in the largest proportion of household income, chances are most ‘heads-of-the-household’ will be male. This is problematic in that it this terminology may serve to reinforce gender stereotypes, albeit unwittingly. The UNHRP should develop a more appropriate terminology, which does not reinforce gender hierarchies, as ‘head-of-the-household’ characterisations are likely to do. For example, in the past UN-HABITAT has suggested that with regard to security of tenure indicators, percentages should be given by sex of the household head, counting separately women- and men-headed households. This approach has been taken because separate figures provide crucial information for a gender-based assessment of security of tenure. As UN-HABITAT has noted, a number of field studies on security of tenure suggest that ‘women-headed households’ often constitute a majority under the precarious tenure status. While this argument is wholly in keeping with the arguments that data should be disaggregated according to gender, the UNHRP remains uncomfortable with continued reliance on ‘head-of-household’ terminology. Using this arrangement, women will most likely be

regarded as the ‘head-of-the-household’ only if they are single or otherwise unaccompanied by a man. It is suggested, therefore, that a more appropriate and accurate term be developed and utilised within the framework of the set of housing rights indicators such as gender of person with legal title to the home, or gender of person who contributes the largest share of household income.

A second issue, which should also be considered, is the importance of distinguishing between a state’s ‘willingness’ and ‘ability’ to implement housing rights. As outlined above, these concepts are distinct from one another in significant ways. On the one hand, ‘ability’ addresses the resources which a state has at its disposal to ensure housing rights, as perhaps measured by level of human development (perhaps using UNDP’s Human Development Index) and level of social inequality (using the GINI index). ‘Willingness,’ on the other hand, addresses that while some states may have the ability to provide adequate housing, they may lack the desire to do so. Measures of willingness may include percent expenditure of GDP on housing rights related initiatives, existence of legal housing rights protections, acceptance of international standards, as well as improvements over time in housing and housing policy.

A discussion of ‘willingness’ and ‘ability’ should at the very least be discussed when interpreting the findings provided by the set of housing rights indicators, but it may very well be that separate models or indicators should be developed to report on the status of both.

VI.C. Recommendations for further development

There are several questions that have yet to be answered and which will require a close collaboration between statistical experts and housing rights experts. Indeed, the development of a monitoring and evaluation system on the progress of the realisation of housing rights with a set of housing rights indicators must be the work of many, and cannot develop fully without broad-based and in depth consultations on a number of technical, substantive and practical issues.

The expert group meeting convened to discuss the proposals made in this report should begin the process of inter-agency consultation, and should include participants from the housing/human rights field, in addition to persons with experience from developing similar types of approaches with indexes, i.e., the human development index (HDI) and human poverty index (HPI) of the United Nations Development Programme. UN-HABITAT and OHCHR staff and the United Nations Special Rapporteur on adequate housing should also be invited to participate in the discussions.

With this document, the UNHRP hopes to begin the discussions and debates, which must inevitably follow if this approach of formulating a set of housing rights indicators is to become a reality. It is hoped further that the ideas put forth will prove useful in serving to stimulate new ideas and future discussions.

The development of a monitoring and evaluation system on the progress of the realisation of housing rights based on the formulation of a set of housing rights indicators would be a great step toward the promotion and protection of housing rights for everyone, everywhere. Such an approach would not only help to raise the profile of housing rights throughout the world, it would also provide a valuable tool for a broad range of housing rights advocates working at the international, regional, national and local levels. Information is critical in the world-wide struggle to secure housing rights for every person, in every corner of the globe. With this goal in mind, the first steps can be taken toward developing the capacities and skills needed to bring life to the set of housing rights indicators.

Annex I. Suggested operational definitions

Access to sanitation¹

Access to sanitation is defined in terms of the types of technology and levels of service afforded. Sanitation is defined to include connection to a sewer or septic tank system, pour-flush latrine, simple pit or ventilated improved pit latrine with allowance for acceptable local technologies.

Access to water supply²

Access to water supply is similarly defined in terms of the types of technology and levels of service afforded. For water, this includes house connections, public standpipes, boreholes with handpumps, protected dug wells, protected springs and rainwater collection, with allowance made for other locally defined technologies. 'Reasonable access' may be broadly defined as the availability of at least 20 litres per person per day from a source within one kilometre of the user's dwelling. *NOTE: While access also to water and sanitation has not, in all cases, been defined to imply that the level of service or quality of water is 'adequate' or 'safe,' minimum standards of adequacy should be included by the Index, as this is critical to ensuring the validity of the 'housing adequacy' measure.*

Accommodation

Accommodation is a broad concept which may refer to any kind of temporary or permanent shelter, including traditional housing, homeless facilities, hotels, hostels, or any other form of paid or unpaid shelter.

Age of housing stock³

To be calculated by subtracting the year a housing structure built from the current year. Date when built refers to when the housing was first constructed, not when it was remodelled, added to, or converted. For alternative types of housing, such as a houseboat or a mobile home or trailer, the manufacturer's model year may be assumed to be the year built.

Discrimination⁴

Discrimination in housing includes acts or policies that block or do not provide for equal access to housing. For example, not selling or renting to a person on account of that person's race, gender, nationality, religion, ethnicity, sexual orientation, disability etc. would constitute housing discrimination. Likewise, not lending financial support in order to purchase housing on account of the above factors would constitute housing discrimination.

1. See World Health Organization (WHO) and United Nations Children's Fund (UNICEF), *Global Water Supply and Sanitation Assessment 2000 Report*. The definition adopted in by the UN-HABITAT for the development of slum index is a slight variation of this definition. See report of the "Expert Group Meeting on Urban Indicators: Secure tenure, slums and global sample of cities", UN-HABITAT, 2002.

2. Ibid.

3. Definition adapted from that used by the 2000 United States Census, see <http://www.census.gov/dmd/www/glossary/glossary_y.html>.

4. See Centre on Housing Rights and Evictions (COHRE), "Glossary of Housing Rights Terms," available online at: <<http://www.cohre.org/hrframe.htm>>.

Displaced person⁵

Persons who have been forced to flee their homes to escape armed conflict, generalised violence, human rights abuses, or natural or human-made disasters but remain in the country of their nationality or country of habitual residence.

Displacement⁶

The relocating of individuals or groups away from their place of residence. Displacement can have a number of causes including natural disasters such as floods and earthquakes, development projects such as the construction of dams, armed conflicts, ‘ethnic cleansing,’ and urban renewal/development projects. Displacement can occur for legitimate as well as illegitimate purposes. *See for comparison: Forced Eviction.*

Due process protection

Due process protection in the area of housing implies the presence of legal remedy provided in all cases of eviction, housing discrimination, or violation of a tenancy agreement. Due process protection includes the right to have a case heard before an independent and impartial judicial body.

Dwelling

Please refer to definition of ‘Accommodation.’

Forced eviction⁷

The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal due process or other protection. Forced evictions are a particular type of displacement which are most often characterized by (1) a relation to specific decisions, legislation, or policies of States or the failure of States to intervene to halt evictions by non-state actors; (2) an element of force or coercion; and (3) are often planned, formulated, and announced prior to being carried out.

Formal settlement

A community or group of households within a recognisable boundary which have legal title to the homes in which they live and the land which they occupy.

Homeless person or family⁸

A person or family lacking access to permanent housing. A homeless person is a person who lacks a fixed, regular, and adequate night time residence or a person whose primary night-time residence is a supervised or publicly operated shelter designed to provide temporary living accommodation, or an institution that provides a temporary residence for individuals

5. Definition adapted from Economic and Social Council resolution 78/1990.

6. See Centre on Housing Rights and Evictions (COHRE), “Glossary of Housing Rights Terms,” available online at: <<http://www.cohre.org/hrframe.htm>>.

7. See United Nations Committee on Economic, Social and Cultural Rights (May 1997), General Comment No. 7 (Art.11(1) of the Covenant) Forced evictions.

8. Definition adapted from the legal definition used in the United States. Full text available online at: <<http://www4.law.cornell.edu/uscode/42/11302.html>>.

intended to be institutionalised, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Household⁹

A household includes all the persons who occupy a housing unit.

Housing¹⁰

The generic term for the dwellings in which all human beings reside.

Housing rights expenditure¹¹

The percentage of government expenditure, relative to overall budget expenditures, spent on building social or public housing, providing housing subsidies, or facilitating other housing improvement related institutions, policies or programmes.

Housing stock

The total sum of housing units within a particular locality, region, or country.

Housing unit¹²

A housing unit is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Income¹³

Total money income from all taxable sources less certain expenses incurred in earning that income. Sources of income include (but are not limited to) the following:

- Wages and salaries
- Income from business
- Gains from the sale of capital assets
- Interest, rents, royalties, and dividends
- Alimony
- Annuities and pensions
- Prizes and awards
- A portion of social security payments
- Unemployment compensation

9. Definition adapted from that used by the 2000 United States Census, see <http://www.census.gov/dmd/www/glossary/glossary_y.html>.

10. See Centre on Housing Rights and Evictions (COHRE), “Glossary of Housing Rights Terms,” available online at: <<http://www.cohre.org/hrframe.htm>>.

11. Ibid.

12. Definition adapted from that used by the 2000 United States Census, see <http://www.census.gov/dmd/www/glossary/glossary_y.html>.

13. Ibid.

Informal settlement

A community or group of households within a recognisable boundary which do not have legal title to the homes in which they live nor to the land which they occupy.

Legal title

Legal ownership of one's house, documented and pursuant to local jurisdiction and legislation.

Median income¹⁴

The median divides the income distribution into two equal parts, one having incomes above the median and the other having incomes below the median. For households and families, the median income is based on the distribution of the total number of units including those with no income. The median for persons is based on persons with income. The median income values for all households, families, and persons should be computed on the basis of income intervals.

Net migration rate¹⁵

The difference between immigration and emigration per thousand population.

Owner-occupied housing¹⁶

A housing unit is owner occupied if the owner or co-owner lives in the unit even if it is mortgaged or not fully paid for. A unit is owned if it is being purchased with a mortgage or some other debt arrangement such as a deed of trust, trust deed, contract to purchase, land contract, or purchase agreement. The unit is also considered owned with a mortgage if it is built on leased land and there is a mortgage on the unit, or if the unit is owned outright without a mortgage.

Persons per household

A measure obtained by dividing the number of persons in households by the number of households.

Private housing

Private housing refers to housing in market economies, which is sold and purchased by private actors or entities according to market prices.

Quintile

This measure divides a distribution into five equal parts. The first quintile (or lower quintile) is the value that defines the upper limit of the lowest one-fifth of the cases, and so on. Quintiles should be presented for certain financial characteristics such as housing costs and income.

14. Ibid.

15. Definition adapted from that provided by the World Bank, available on-line at: <<http://www.worldbank.org/data/working/def8.html>>.

16. Ibid.

Renter occupied housing¹⁷

All occupied housing units, which are not owner, occupied, and are rented for cash rent or otherwise occupied for payment.

Room¹⁸

A room may be defined as a space in a housing unit or other living quarters enclosed by walls reaching from the floor to the ceiling or roof covering, or at least to a height of 2 meters, of a size large enough to hold a bed for an adult, that is, at least 4 square meters. Rooms, therefore, may include bedrooms, dining rooms, living rooms, studies, habitable attics, servants' rooms, kitchens, rooms used for professional or business purposes and other separate spaces used or intended for dwelling purposes, so long as they meet the criteria of walls and floor space. Passageways, verandas, lobbies, bathrooms and toilet rooms are not expected to be counted as rooms, even if they meet the criteria.

Social housing/ public housing¹⁹

Housing financed, constructed and/or allocated by the State or public sector, generally designated for low-income groups. Social housing is generally kept at affordable rent levels or, when involving owner-occupation, financed with low-interest loans or credit. This type of housing is provided by the State. In market economies, social/ public housing is provided for persons with limited income or wealth.

Squatter

A person occupying an otherwise abandoned housing unit or land without legal title to that unit or land. For example, persons who take up residence in unused or abandoned dwellings or buildings are squatters.

17. Definition adapted from that used by the 2000 United States Census, see <http://www.census.gov/dmd/www/glossary/glossary_y.html>.

18. See United Nations Secretariat and United Nations Centre for Human Settlements (Habitat), *Compendium of Human Settlement Statistics 2001* (United Nations publication, Sales No. E.01.XVII.5), *Compendium of Human Settlement Statistics 1995* (United Nations publication, Sales No. E.95.XVII.11) and United Nations, *Compendium of Human Settlements Statistics 1983* (United Nations publication, Sales No. E/F.84.XVII.5).

19. See Centre on Housing Rights and Evictions (COHRE), "Glossary of Housing Rights Terms," available online at: <<http://www.cohre.org/hrframe.htm>>.

Annex II. General Comment No. 4 of the Committee on Economic, Social and Cultural Rights on Adequate Housing^{*/}

1. Pursuant to article 11 (1) of the Covenant, States parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.

2. The Committee has been able to accumulate a large amount of information pertaining to this right. Since 1979, the Committee and its predecessors have examined 75 reports dealing with the right to adequate housing. The Committee has also devoted a day of general discussion to the issue at each of its third (see E/1989/22, para. 312) and fourth sessions (E/1990/23, paras. 281-285). In addition, the Committee has taken careful note of information generated by the International Year of Shelter for the Homeless (1987) including the Global Strategy for Shelter to the Year 2000 adopted by the General Assembly in its resolution 42/191 of 11 December 1987^{1/}. The Committee has also reviewed relevant reports and other documentation of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities^{2/}.

3. Although a wide variety of international instruments address the different dimensions of the right to adequate housing^{3/} article 11 (1) of the Covenant is the most comprehensive and perhaps the most important of the relevant provisions.

4. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11 (1) of the Covenant and the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries, which confront major resource and other constraints, the Committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies. The United Nations estimates that there are over 100 million persons homeless worldwide and over 1 billion inadequately housed^{4/}. There is no indication that this number is decreasing. It seems clear that no State party is free of significant problems of one kind or another in relation to the right to housing.

5. In some instances, the reports of States parties examined by the Committee have acknowledged and described difficulties in ensuring the right to adequate housing. For the most part, however, the information provided has been insufficient to enable the Committee to obtain an adequate picture of the situation prevailing in the State concerned. This General Comment thus aims to identify some of the principal issues, which the Committee considers to be important in relation to this right.

6. The right to adequate housing applies to everyone. While the reference to “himself and his family” reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of “family” must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.

7. In the Committee’s view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a

roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. This "the inherent dignity of the human person" from which the rights in the Covenant are said to derive requires that the term "housing" be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in article 11 (1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: "Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost".

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

(a) **Legal security of tenure.** Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

(b) **Availability of services, materials, facilities and infrastructure.** An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

(c) **Affordability.** Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance, which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

(d) **Habitability.** Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the *Health Principles of Housing*^{5/} prepared by WHO which view

housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

(e) **Accessibility.** Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

(f) **Location.** Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

(g) **Cultural adequacy.** The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, *inter alia*, modern technological facilities, as appropriate are also ensured.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable international instruments. Reference has already been made in this regard to the concept of human dignity and the principle of non-discrimination. In addition, the full enjoyment of other rights - such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence and the right to participate in public decision-making - is indispensable if the right to adequate housing is to be realized and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing.

10. Regardless of the state of development of any country, there are certain steps, which must be taken immediately. As recognized in the Global Strategy for Shelter and in other international analyses, many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating "self-help" by affected groups. To the extent that any such steps are considered to be beyond the maximum resources available to a State party, it is appropriate that a request be made as soon as possible for international cooperation in accordance with articles 11 (1), 22 and 23 of the Covenant, and that the Committee be informed thereof.

11. States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others. The Committee is aware that external factors can affect the right to a continuous improvement of living conditions and that in many States parties overall living conditions declined during the 1980s. However, as noted by the Committee in its General Comment 2

(1990) (E/1990/23, Annex III), despite externally caused problems, the obligations under the Covenant continue to apply and are perhaps even more pertinent during times of economic contraction. It would thus appear to the Committee that a general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant.

12. While the most appropriate means of achieving the full realisation of the right to adequate housing will inevitably vary significantly from one State party to another, the Covenant clearly requires that each State party take whatever steps are necessary for that purpose. This will almost invariably require the adoption of a national housing strategy which, as stated in paragraph 32 of the Global Strategy for Shelter, “defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time-frame for the implementation of the necessary measures”. Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives. Furthermore, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant.

13. Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State party to satisfy its obligations under article 11 (1) it must demonstrate, *inter alia*, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to “provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing”. They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in “illegal” settlements, those subject to forced evictions and low-income groups.

14. Measures designed to satisfy a State party’s obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate. While in some States public financing of housing might most usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of Governments to fully satisfy housing deficits with publicly built housing. The promotion by States parties of “enabling strategies”, combined with a full commitment to obligations under the right to adequate housing, should thus be encouraged. In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.

15. Many of the measures that will be required will involve resource allocations and policy initiatives of a general kind. Nevertheless, the role of formal legislative and administrative measures should not be underestimated in this context. The Global Strategy for Shelter (paras. 66-67) has drawn attention to the types of measures that might be taken in this regard and to their importance.

16. In some States, the right to adequate housing is constitutionally entrenched. In such cases the Committee is particularly interested in learning of the legal and practical significance of such an approach. Details of specific cases and of other ways in which entrenchment has proved helpful should thus be provided.

17. The Committee views many component elements of the right to adequate housing as being at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

18. In this regard, the Committee considers that instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

19. Finally, article 11 (1) concludes with the obligation of States parties to recognize “the essential importance of international cooperation based on free consent”. Traditionally, less than 5 per cent of all international assistance has been directed towards housing or human settlements, and often the manner by which such funding is provided does little to address the housing needs of disadvantaged groups. States parties, both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. International financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing. States parties should, when contemplating international financial cooperation, seek to indicate areas relevant to the right to adequate housing where external financing would have the most effect. Such requests should take full account of the needs and views of the affected groups.

Notes

* Contained in document E/1992/23.

- 1/ *Official Records of the General Assembly, Forty-third Session, Supplement No. 8, addendum (A/43/8/Add.1).*
- 2/ Commission on Human Rights resolutions 1986/36 and 1987/22; reports by Mr. Danilo Türk, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1990/19, paras. 108-120; E/CN.4/Sub.2/1991/17, paras. 137-139); see also Sub-Commission resolution 1991/26.
- 3/ See, for example, article 25 (1) of the Universal Declaration on Human Rights, article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, article 27 (3) of the Convention on the Rights of the Child, article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, 1976 (*Report of Habitat: United Nations Conference on Human Settlements* (United Nations publication, Sales No. E.76.IV.7 and corrigendum), chap. I), article 8 (1) of the Declaration on the Right to Development and the ILO Recommendation Concerning Workers’ Housing, 1961 (No. 115).
- 4/ See footnote 1/.
- 5/ Geneva, World Health Organization, 1990.

Annex III. General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on Forced Eviction*¹

1. In its General Comment No. 4 (1991), the Committee observed that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. It concluded that forced evictions are *prima facie* incompatible with the requirements of the Covenant. Having considered a significant number of reports of forced evictions in recent years, including instances in which it has determined that the obligations of States parties were being violated, the Committee is now in a position to seek to provide further clarification as to the implications of such practices in terms of the obligations contained in the Covenant.

2. The international community has long recognized that the issue of forced evictions is a serious one. In 1976, the United Nations Conference on Human Settlements noted that special attention should be paid to “undertaking major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made”.^{1/} In 1988, in the Global Strategy for Shelter to the Year 2000, adopted by the General Assembly in its resolution 43/181, the “fundamental obligation [of Governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them” was recognized.^{2/} Agenda 21 stated that “people should be protected by law against unfair eviction from their homes or land”.^{3/} In the Habitat Agenda Governments committed themselves to “protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided”.^{4/} The Commission on Human Rights has also indicated that “forced evictions are a gross violation of human rights”.^{5/} However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

3. The use of the term “forced evictions” is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to “forced evictions” is a tautology, while others have criticized the expression “illegal evictions” on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term “unfair evictions” is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to “forced evictions”, primarily since all suggested alternatives also suffer from many such defects. The term “forced evictions” as used throughout this general comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

4. The practice of forced evictions is widespread and affects persons in both developed and developing countries. Owing to the interrelationship and interdependency, which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to

security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

5. Although the practice of forced evictions might appear to occur primarily in heavily populated urban areas, it also takes place in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of acts or omissions attributable to States parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with article 4 of the Covenant is required so that any limitations imposed must be “determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society”.

6. Many instances of forced eviction are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.

7. Other instances of forced eviction occur in the name of development. Evictions may be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

8. In essence, the obligations of States parties to the Covenant in relation to forced evictions are based on article 11.1, read in conjunction with other relevant provisions. In particular, article 2.1 obliges States to use “all appropriate means” to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by article 17.1 of the International Covenant on Civil and Political Rights which complements the right not to be forcefully evicted without adequate protection. That provision recognizes, *inter alia*, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for that right is not qualified by considerations relating to its available resources.

9. Article 2.1 of the Covenant requires States parties to use “all appropriate means”, including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No. 3 (1990) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards the Government greatly reducing its responsibilities in the housing sector, States parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

10. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.

11. Whereas some evictions may be justifiable, such as in the case of persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected.

12. Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction.

13. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2.3 of the International Covenant on Civil and Political Rights, which requires States parties to ensure “an effective remedy” for persons whose rights have been violated and the obligation upon the “competent authorities (to) enforce such remedies when granted”.

14. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard it is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person’s home can only take place “in cases envisaged by the law”. The Committee observed that the law “should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances”. The Committee also indicated that “relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted”.

15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons

carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

17. The Committee is aware that various development projects financed by international agencies within the territories of State parties have resulted in forced evictions. In this regard, the Committee recalls its General Comment No. 2 (1990) which states, *inter alia*, that “international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account”.^{6/}

18. Some institutions, such as the World Bank and the Organisation for Economic Cooperation and Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale of and human suffering associated with forced evictions. Such practices often accompany large-scale development projects, such as dam-building and other major energy projects. Full respect for such guidelines, insofar as they reflect the obligations contained in the Covenant, is essential on the part of both the agencies themselves and States parties to the Covenant. The Committee recalls in this respect the statement in the Vienna Declaration and Programme of Action to the effect that “while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights” (Part I, para. 10).

19. In accordance with the guidelines for reporting adopted by the Committee, State parties are requested to provide various types of information pertaining directly to the practice of forced evictions. This includes information relating to (a) the “number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction”, (b) “legislation concerning the rights of tenants to security of tenure, to protection from eviction” and (c) “legislation prohibiting any form of eviction”.^{7/}

20. Information is also sought as to “measures taken during, *inter alia*, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) ‘beautiful city’ campaigns, etc. which guarantee protection from eviction or guarantee rehousing based on mutual consent, by any persons living on or near to affected sites”.^{8/} However, few States parties have included the requisite information in their reports to the Committee. The Committee therefore wishes to emphasize the importance it attaches to the receipt of such information.

21. Some States parties have indicated that information of this nature is not available. The Committee recalls that effective monitoring of the right to adequate housing, either by the Government concerned or by the Committee, is not possible in the absence of the collection of appropriate data and would request all States parties to ensure that the necessary data is collected and is reflected in the reports submitted by them under the Covenant.

Notes

* Contained in document E/1998/22, Annex IV.

- 1/ Report of Habitat: United Nations Conference on Human Settlements, Vancouver, 31 May - 11 June 1976 (A/CONF.70/15), chap. II, recommendation B.8, para. C (ii).
- 2/ Report of the Commission on Human Settlements on the work of its eleventh session, Addendum (A/43/8/Add.1), para. 13.
- 3/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I (A/CONF.151/26/Rev.1(vol.I), Annex II, Agenda 21, chap. 7.9 (b).
- 4/ Report of the United Nations Conference on Settlements (Habitat II) (A/CONF.165/14), Annex II, The Habitat Agenda, para. 40 (n).
- 5/ Commission on Human Rights resolution 1993/77, para. 1.
- 6/ E/1990/23, Annex III, paras. 6 and 8 (d).
- 7/ E/C.12/1999/8, Annex IV.
- 8/ Ibid.

United Nations Housing Rights Programme

List of reports

No. 1: Housing Rights Legislation: Review of international and national legal instruments (HS/638/01 E)

A review of housing rights in international and national law, including a discussion of housing rights as progressive legal obligations. The report also reviews selected adjudication, e.g. how housing rights legislation is being implemented. The report illustrates that effective constitutional and legislative measures on the right to adequate housing are not only realistic but have already been used successfully in a number of countries. The examples presented provide a framework for model legislation with respect to specific components of the right to adequate housing. 123+xvi pp.

No. 2: International Instruments on Housing Rights (HS/639/01 E)

A compilation with excerpts of relevant international instruments on housing rights. Includes ratification information and interpretative documents by the United Nations Committee on Economic, Social and Cultural Rights (such as the full text of relevant General Comments to the International Covenant on Civil and Political Rights), and other entities. The latter includes the full texts of two of the most important interpretative texts relating to economic, social and cultural rights: the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights.

No. 3: National Housing Rights Legislation (HS/640/01 E)

A compilation of constitutional clauses with respect to housing rights. It also contains the full texts or excerpts of selected legislation related to housing from several States – representing a variety of legal, political, economic and cultural systems and traditions. The compilation is not comprehensive, yet, it is representative of the various means by which States have chosen to include housing rights, including their obligations regarding international instruments, within their domestic legal systems.

No. 4: Compilation of Selected Adjudication on Housing Rights (HS/641/01 E)

A compilation of selected court cases related to housing rights and other adjudication from national and international legal institutions, including the European Court of Human Rights. Includes relevant excerpts of national legislation critically reviewed by the United Nations Committee on Economic, Social and Cultural Rights.

Electronic versions of these UN-HABITAT publications can be obtained from:
<<http://www.unhabitat.org/unhrp/pub>>

Printed copies of UN-HABITAT publications can be obtained from:

UN-HABITAT

Information Services Section

PO Box 30030, Nairobi 00100, KENYA.

Fax: (254)-20-623477 (or 624266/7)

E-mail: Habitat.Publications@unhabitat.org; Web-site: <<http://www.unhabitat.org>>

United Nations Housing Rights Programme

The United Nations Housing Rights Programme (UNHRP) was launched in 2002, as a joint initiative by UN-HABITAT and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The establishment of the programme was a direct response to United Nations Commission on Human Rights resolution 16/7 and United Nations Commission on Human Rights resolutions 2001/28 and 2001/34.

The objective of the UNHRP is to assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda to ensure the full and progressive realisation of the right to adequate housing as provided for in international instruments. This substantive focus is grounded in the Habitat Agenda, in particular paragraph 61, which states that “Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing”.

The UNHRP is based on the mandates of both UN-HABITAT and OHCHR, and operates as a fundamental tool for the Global Campaign for Secure Tenure. UNHRP is implemented in close consultation with the Special Rapporteur on adequate housing and relevant United Nations treaty bodies, such as the Committee on Economic, Social and Cultural Rights. Civil society and non-governmental organisations, women’s organisations, national human rights institutions, research and academic institutions and associations of relevant professions and local authorities are expected to play important roles as partners in the implementation of UNHRP.

The first phase of the UNHRP (2002-2004) focuses on five programme areas: advocacy, outreach and learning from partners; support for United Nations human rights mechanisms on housing rights; monitoring and evaluation of progress of realisation of housing rights (including development of housing rights indicators); research and analysis on housing rights (promotion and development of relevant norms, standards and guidelines as well as thematic research on housing rights); and capacity-building and technical co-operation (assistance to States and other stakeholders in building capacities for implementation and monitoring of housing rights).

For further information, please visit our web-site at:
<http://www.unhabitat.org/unhrp>