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

QUESTIONNAIRE

**Background and Objective of the report**

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

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

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

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

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

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

**BASIC INFORMATION**

1. Name of Individual, Organization, Institution, Agency or State: Habitat International Coalition (HIC).

HIC acknowledges the following regional / national cases and respective contributors:

* Angola (Development Workshop Angola) – See attached article by Allan Cain
* Argentina (CISCSA and Movement of Occupants and Tenants of Argentina)
* India (Sathi All For Partnerships - SAFP, Areas: Delhi and Mumbai).
* Mexico (Community Cooperation of Mexico and HIC-America Latina)

Separate country contexts and contributors will be indicated throughout the document.

Type of Entity\*

National Government or federal governmental ministry/agency

Inter-governmental organization or UN agency

Local or regional government, agency, representative or mayor

Association, tenant union or housing cooperative

NGO network, umbrella organization

Community-based NGO

Academia

Foundation

National human rights organization, ombudsperson

Real estate, urban planning or construction

Real estate investor or investment fund

Trade Union

Other:

2. Categorization of your Work

Please select one or more responses, as appropriate.

Public administration

Advocacy

Funding

Legal Assistance

Networking

Policy

Research

Technical Assistance

Training

N/A

Other:

3. City/Town: HIC General Secretariat based in Cape Town, South Africa

4. State/Province: Click here to enter text.

5. Country: International

6. Contact e-mail in case we have questions: secretary.general@hic-net.org

**HOUSING DISCRIMINATION**

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

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

**India**

Other groups include orphans who have to leave orphanages at age 18. These care leavers are ill prepared and have a make-shift stay arrangement, if any. During the COVID-19 first wave, care leavers faced acute problems as hostels got shut and these young people had nowhere to go

**Latin America**

*A general reflection*

Most of the cities in the Latin America region are characterized by social and spatial segregation, a very significant number of the population suffers from overcrowding, violence and the deterioration of popular habitat. One of the reasons for this “urban disease” – with dramatic expressions in the context of the COVID-19 pandemic, most significantly affecting those who suffer the most– is explained by various factors. Governments have, for decades, placed the main emphasis on increasing the “home ownership rate” rather than focusing decisively on “distributive” urban policies that take into account the needs of lower-income populations and offer housing access options that are independent of individual property. In addition, the region has witnessed a weakening of urban planning. The foregoing is a consequence, to a large extent, of the effects of territorial, urban and housing dynamics that resulted from the implementation of structural reforms at the beginning of the 90s, imposed on the countries of the South before the outbreak of the external debt crisis. The international financial institutions that designed the reforms also managed to block the implementation of the more progressive approaches of agendas developed during the 1990s in the framework of different United Nations summits and conferences with significant participation from civil society. This is the case of the agenda that emerged from the Second United Nations Conference on Human Settlements (1996).

As part of the structural reforms of the so-called “Washington Consensus”, enormous weight was given to the macroeconomic role of the commercial production of housing. This decision was established on the extension of market forces and a rethinking of the role of the State that went from being a provider and regulator to a facilitator, even in the area of urban-regional planning. These changes enabled speculation and greater accumulation of profits by the real estate sector. As a consequence public housing production programs were cancelled and the amount of fiscal resources allocated to this item was reduced. The State no longer concentrated on meeting social needs but on operating through market mediation and financing the purchase of housing. The result was that the market was unable to serve the population located below the poverty line. This was due to the state focusing on sectors earning between five and ten times the minimum wage while poverty alleviation programs targeting the poorest did not apply to housing. In addition, firmly established property rights were stimulated through the regularization of individual property. Such regularisation should have addressed overcoming poverty due to the possibility of access to credit, but various studies have shown that there has been no impact on the economy, increase in “beneficiaries” accessing these credits or in the improvement of their economic situation. On the other hand, it had an effect on stimulating processes of individualization while discouraging and combating collective initiatives such as housing cooperatives or organized forms of self-construction, as well as reducing support for rental housing. In addition, the mortgage system was strengthened (leaving millions of people in debt), eviction proceedings in the event of mortgage default were sped up, and mortgage packages in the international secondary market (a process known as securitization) were rediscounted.

*On gender and diversity in relation to housing rights*

Given the differentiated roles between women and men, assigned by traditions, cultures and social guidelines that respond to the gendered division of labor, it is women who assume responsibility for domestic tasks, for the space within a house, the space that is home and the space where social life is reproduced. In this sense housing has always been the space and place of responsibility for women, also thought of as the space of "rest" in functional and modern urbanism.

These conceptions are based on the principles of modernity and the Charter of Athens which places ideas of housing and the city within the context of paid and masculinized employment. At the same time, it is women, responsible for reproduction and care, who, in general, are concerned with ensuring land and housing tenure. Territorial organization is based on functionalism and relies on the four known functions of housing, employment, leisure and transport. It has been defined in terms of homogeneous and masculine subjects most often comprising young, white, productive males.

This vision of planning or land use has omitted women and denied reproductive work as such. This omission of gender results in a form of violence expressed in the invisibilisation of women and their complex identities and diversities, as well as other segments of the population who identify as LGBTQI+. The omission of a gender-sensitive approach is not neutral; it is an undervaluation of women and diversities, and demonstrates the androcentric bias of a city's policies. Like land-use planning policies, housing policies deny women as independent subjects of the policy. Instead, policies omit the specific demands and needs of women which are related to their assigned conditions and roles. These include the roles of women as caregivers in families; the disproportionately lower employment rate of females in the formal market; the disproportionately higher amount of female workers in the informal and service markets; the 30% average of households and dependants for whom women are solely responsible and the proportionately higher rate at which women use urban services and infrastructure in comparison to men. By ignoring the specific needs of women, housing policy reproduces asymmetric relationships of subordination in terms of location, approaches to policy production, types of housing units, number of square metres per person, services that complement them, accessibility, security and the proximity of public spaces and their equipment, amongst others.

What has been briefly pointed out here, indicates the need for diagnoses, as political tools, when designing housing policies. Such diagnoses break the supposed neutrality with which cities and housing policies are planned, often for an undifferentiated population. They also break the supposed neutrality of spatial design which is mostly based on masculine conceptualisations or understandings of family, parents and children, lacking recognition of the differentiated way people make use of housing units related to their assumed sex, age or cultural guidelines that define approaches to class, ethnicity, race, migration, and others. As such, homes are designed for a homogeneous society and largely respond to heteronormative guidelines that are defined by a patriarchal society.

Thus, policies are structured based on the concept of demand in a system that recognizes heterosexual nuclear households, consisting of a typical family and responding to the traditional division of labor where men are linked to productive work and women as solely responsible for domestic and reproductive work. This approach does not recognize that households are not homogeneous in terms of family structure and makes gender and diversity in sexual orientation invisible. It does not meet differentiated needs according to household type, number of persons responsible for the household and number of dependents.

Various feminist architects, sociologists, lawyers, and professionals have contributed to housing and gender studies. These include authors such as Dalmazzo, Cardona, Falú, Feijoo, Rainero, Melendez who have built an argumentative basis to account for structural gaps of inequality between men and women, not only in policy but also in terms of ​​social production of habitat. The social production of habitat is practiced in Latin America and internationally (see [www.hic.org](http://www.hic.org)) and acknowledges how the absence of women as subjects in the political arena, and a lack of differentiating women’s specific needs from those of men, deepens existing asymmetries (Falú Ana, AFD Consulting, 2019). Noteworthy in this regard, is also the work of the Latin American Women and Habitat Network (www.redmujer.org.ar).

In Latin America, the most discriminated populations in the region in terms of access to housing are migrants, refugees and internally displaced persons who, except for some exceptions, are not covered by national programs in terms of housing access. As HIC members in Latin America do not work specifically from this approach, the contributions from HIC Latin America will not contain further elaborations on this line.

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

**India**

The entire set of the below factors come into play when there is no home to go to.

*Accessibility*

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

**Latin America**

In general, there are few countries in Latin America in which there is a true land policy that ensures that the entire population can have access to serviced and centrally located land. At the international or local level, land is generally not recognized as a human right, when it is the essential basis for ensuring adequate housing.

*Mexico: Recognising people with disabilities in relation to housing*

In Mexico, the National Housing Program[[2]](#footnote-2) recognizes people with disabilities: People with disability represent 6.4% of the total population of the country. In 2018, 48.6% of this group was living in poverty, of which 22.8% lacked access to basic services in the home and 9.4% lacked quality and space in relation to housing.

*Mexico: Women*

Women represent 51.4% of the total population of the country. According to the National Institute of Women, in 2015 only 35.3% of women were homeowners in Mexico, compared to 56.0% of men. In rural areas, the percentage of female ownership drops to 30%.

*Mexico - Indigenous population*

People who self-recognized as indigenous represent 21.5% of Mexico’s total population. In 2017, 32.4% of the indigenous population showed deficiencies in quality and adequate space in the home, while 79.1% lived in a deficient home. 56.0% of the indigenous population was lacking access to basic services.

*Mexico - Older Adults*

The population of older adults (PAM) represents 10.4% of the country’s population. This percentage will grow to 14.6% by 2030 according to projections published by the National Council of Population (CONAPO). Of the total PAM, 43.7% live in poverty, of which 7.4% suffer from lack of quality and adequate space in the home and 20.8% lack access to basic housing services.

*Habitability*

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

*Mexico*

In Mexico in 2018 the number of homes lagging behind due to overcrowding was 1.7 million (approximately 7% of the total homes) and for materials was 8.5 million (approximately 25% of all homes). It is relevant to underline that several of the materials whose use makes a home “uninhabitable” in official statistics are traditional materials that have always been used by the population and whose use instead of being "criminalized" could be rescued.

*Affordability*

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

*Mexico*

In Mexico, the 2019-2024 National Housing Program recognizes that the first three income deciles spend more than 30% of their income on rent. More precisely, figures from the 2018 National Household Income and Spending Survey (ENIGH)[[3]](#footnote-3) estimate that the poorest decile of Mexican households (the I decile represent the 10% with lowest income, which, on average, live on 5 US dollars a day), spends around 61% of their income on housing and utilities. The number for the next two deciles is 34%, while for the rest it does not exceed 30%, underscoring a clear inequality.

The first challenge has to do with market prices and income level of the population; if it is taken into account that the annual average income of households in 2018 was approximately $ 198,440 MXN and the average price of a new house was MXN $ 800.98223. This means that a family would have to allocate about four times the total annual income to purchase middle housing, paid in cash. This lack affordability becomes more pronounced in the case of women, who in 2018 earned an average monthly income of $ 13,595 MXN, compared to that of the men who earned $ 21,962 MXN; that is, for every ten pesos received by men, women received six.In the case of the indigenous population, where the average income of men was $ 16,076 MXN and for women of $ 9,373 MXN, this situation is aggravated (ENIGH, 2018).

The second affordability challenge, for the national Housing Program is the insufficient and inequitable access to financing options. In Mexico there is a low penetration of credit for housing: in 2015, only 20.8% of private homes acquired or built by their owners were financed through Infonavit, FOVISSSTE, PEMEX or the National Popular Room Fund while 4.9% had used a loan from banks, financial companies limited object or savings banks. This implies that, in that year, seven out of ten houses were financed with the resources of the family. The main problem, dragged for many years, is that the instruments of financial institutions in this sector are focused mainly on the acquisition of housing for the eligible part of the population, which covers only 44% of the workforce in Mexico. This generates a dynamic that excludes people who work in the formal sector with limited income, those who work in the informal sector and those who have access to housing through lease and those who build their home on a family lot.

The conclusion on the issue by the National Housing Program is: “This is why confronting this challenge is indispensable if we are to stimulate the development of alternatives to purchasing for access to adequate housing.”

*Security of tenure*

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

*Mexico – Secure Tenure and Evictions*

In Mexico the 2019-2024 National Housing Program states that “today, 16.3% of owner-occupied homes lack secure tenure due to lack of title deeds. This problem is especially acute for vulnerable groups like indigenous and rural communities, whose homes lack title deeds in a much higher percentage (23.6% and 25.3%, respectively).”

According to the Program, “there are three central challenges that characterize the deficiencies Mexico needs to overcome to achieve secure tenure:

* The first is that we do not know the exact magnitude of the problem; for example, although the National Institute for Sustainable Land (Spanish acronym INSUS) estimates that there are around 7.5 million irregular lots in residential use nationwide, at present there are no official records or statistics to corroborate their data. (…) A better understanding is needed of a) the causes behind lack of secure tenure –in particular, the inadequate supply of formal land for affordable housing– and b) the problems created by forced evictions, harassment, and other threats to people lacking secure tenure.
* The second challenge involves the process of documenting ownership (…), in which homeowners are forced to endure protracted and costly bureaucratic procedures: (…) notarial costs can represent around 5 to 10% of the value of a property. The exorbitant cost of deeds undermines homeowners, since, in addition to placing them at risk of invasion or eviction, it limits their ability to exercise property rights, for example by using their homes as collateral for bank loans. (…).
* The third obstacle to achieving security of tenure involves rental housing, which accounts for 15.9% of all homes in Mexico –below the average among members the Organization for Economic Cooperation and Development (OECD), which is 19.2%.5 In the year 2014, only 41% of rental homes had leases that established the terms of rental” (it is important to note, something the National Housing Program fails to do, that -based on the 2015 inter-census survey, another 15.6% of homes nationwide are borrowed or occupied by non-owners, part of which could even be classified as leased or sublet). The program acknowledges that “although the lack of a lease does not affect security of tenure in the strict sense of the term, it is linked to issues like forced evictions, extortion, and abuse, which affect both tenants and owners.

In Mexico there is no national registry of evictions and most states also provide no data on the issue. Only the Superior Court of Justice of Mexico City (Tribunal Superior de Justicia in Spanish) publishes statistics on the types of cases the city courts decide. From this information, we can see that between 2011 and 2019 there have been on average 3000 evictions a year, half of which involve tenant disputes and the other half are evictions in civil disputes in general. There is no data in relation to non-jurisdictional evictions, derived from mobbing or pressure received by private guards or drug trafficking.

In relation to evictions caused by mega projects, such as dams, a study[[4]](#footnote-4) developed by HIC-AL considering data from 2016, only in 14% of the cases data existed on evicted people and according to the source consulted, the data is discordant. In addition to the lack of precise data from the different public agencies on evictions, which, among other things, does not allow us to clearly state whether or not the aforementioned evictions are forced, there is also no clear information on the ways in which they are carried out or the possible compensation. **The absence of data also makes it difficult to confirm patterns of discrimination.** Even so, the testimonies, mostly collected in urban areas by low-income evicted populations, the difficulty comprises access to lawyers, the lack of notifications or the use of actuaries not recognized by the courts, acts of corruption and use of fake documents to carry out evictions. In general, the articles that govern the contractual relations in the matter of rentals guarantee greater rights to the owners who always impose more requirements on the people who want to rent a home.

*Availability of services, materials, facilities and infrastructure*

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

*Location*

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

*Mexico*

In terms of proximity to employment and equipment, in Mexico the 2019-2024 National Housing Program identifies considerable deficiencies. Between 2014 and 2017 the National Bodies of Housing (ONAVIs) financed the building of more than 2.2 million units, but only 8.0% were located in fully consolidated urban areas. Of the houses built in 2017 for the economic segment (with a cost under $ 311,450 MXN), only 2.9% were located in consolidated areas, while 73.0% were located in peri-urban areas disconnected from sources of employment, equipment, urban services and transportation networks. These may be among the main reasons that 6 million homes are empty in the country even though not all are new homes.

In addition, projecting development of future housing, only 14.7% of territorial reserves in the country comply with a suitable location in terms of access to infrastructure and proximity to sources of employment. The low-income population that does not have access to any housing programs (there are no social rental options and housing cooperatives in Mexico) are recognized from 1917 but there is no legislation related to this segment that allows easy operation and frequently locates the homes of this population segment in hazardous areas or water recharge areas.

Although the numbers may change, this situation is very similar in the vast majority of Latin America, where similar programs of massive construction of housing have been implemented outside the cities, leaving the recipient municipalities with the responsibility of providing them with services instead of imposing this task to the contracting companies.

*Cultural adequacy*

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

*Mexico – the role of rural communities in housing production*

Cultural adequacy is among the least analyzed and considered aspects in Mexico. In fact, the 2016 housing law takes up 5 of the 7 characteristics of adequate housing without including cultural adequacy among them. In the post-earthquake reconstruction programs of 2017, the houses made of palm trees or other traditional or local materials were not restored to their inhabitants, so they were not considered "houses."

Organizations working with communities in rural areas, as Cooperación Comunitaria in Mexico, underscore that within the international construction of concepts and regulations around Adequate Housing, the formulation and reflection generally revolves around urban environments, leaving aside the cultural and productive relevance of rural areas, as well as the various vulnerabilities that people face in these places. It is necessary to understand the rural dimension in depth in order to generate adequate mechanisms and policies. Likewise, it becomes essential to recognize the relevant role of rural communities as producers of housing and to deepen the relationships between housing and habitat.

Norms and behaviours that need to change relate to:

* **Laws:** It is evident that there is no specific regulation that promotes traditional construction systems.
* **Politics:** The main and official indicators on adequate housing in Mexico classify local materials and traditional construction systems as precarious. This stigmatizes and limits the social production of housing in rural areas. Furthermore, the technical advisers working with communities on social production of habitat do not have enough training and experience to understand the rural environment and indigenous cultures. Finally, there are no policies that promote or measure the level of participation or social cohesion generated around the housing production or management processes.
* **Mechanisms and practices:** A clear example has to do with the post-disaster reconstruction programs that have been officially carried out in rural areas of Mexico. The cultural adequacy of the dwellings is not considered, since homogeneous prototypes are imposed that do not respond to the specific needs of the inhabitants. On the other hand, in many cases the houses are built without having previously carried out a risk analysis and are located in areas prone to landslides. In the case of Mexico, the application of resources by the State requires rapid execution, so timeframes are insufficient to carry out a soil analysis, structural analysis appropriate to the seismic coefficient, participatory design with users and comprehensive participatory diagnoses.

Within these official schemes, the reactivation of economic practices and therefore the recovery of infrastructure prior to housing reconstruction have not taken priority.

In post-disaster reconstruction schemes, as well as in conventional housing programs promoted by the government and executed by commercial entities, the habitability conditions are not considered in said prototypes, since the dimensions of the house, both in mt2 and in m3, keep inhabitants in overcrowded conditions with inadequate thermal conditions for the climate.

Cooperacion Comunitaria has studied that traditional systems can provide better living conditions in terms of thermal comfort, sufficient living space, protection against risks and structural hazards. In addition, the studies HIC-AL has carried out indicate that homes built with local materials are 74% more ecological in terms of CO2 emissions compared to homes built with industrialized materials.

The same happens in terms of affordability, since the financing programs do not include people who do not carry out a formal economic activity. Inequities in access to basic services are also evident.

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

*India*

The JJ Act does provide an allowance of Rs 2000 per month that is, however, not accessed by the care leavers in all the states of India.

*Mexico*

If you want to rent a home in Mexico, it is very common that at the time of the contract the owner asks for the endorsement of a guarantor who has some property. This property must be registered in the Public Property Registry and be in the same city where the person wants to rent.

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

*India*

The law has aftercare care rights in the JJ Act to provide for the welfare for three more years until the age of 21. What happens after that? The young care leavers need to earn to fend for themselves but they are in poor mental and physical health to retain work and jobs.

*Mexico*

Although there are institutions in Mexico that have focused on the poorest population without formal employment, the housing policy for many years has been dedicated above all to providing home ownership to those registered in the social security system.

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

*India*

No renting takes place as they have very few referrals, if the welfare officer of the Child Care Institution is not favourably disposed towards the youth care leaver.

*Argentina*

In Argentina there are experiences of differentiated treatment towards certain groups in relation to housing. In accordance with international human rights standards, for example, positive measures that benefit a specific group (female heads of household and dissidents) to overcome systematic discrimination or disadvantage as such treatment would amount to discrimination. An initiative in this sense has been in FONAVI I and II, the housing reactivation programs and the housing emergency program, where the category "unemployed heads of households" is incorporated as beneficiaries, with the assignment of scores for these households, as well as for households with disabled children, to promote access to housing (AFD consultancy, 2019, Ana Falú).

For its part, the Neighborhood Improvement Program of the Province of Buenos Aires (PRO.ME.BA.) contributes to the inclusion of gender in politics based on a study on the composition of the municipal organization chart according to gender. Observing that the municipal infrastructure and public works areas, 13 are headed by women, in relation to 102 headed by men. In the municipal land areas, on the other hand, 7 women and 8 men are in charge. Thus, PROMEBA proposes, as public policy, gender equalization provisions to operate on housing policy and habitat improvement. An example of this is the attention to gender violence, such as allocating budget items specifically for projects of women and dissidents, giving priority to women in the purchase tickets for the Family Owner and Property Regularization plan and proposing that in all settlements housing for women and dissidents in situations of violence are included. What was significant were the two recent provisions that govern, from now on for PROMEBA, in order to install positive action in the technical professional field in favor of women. Thus, they propose that, under the same conditions and capacities, in the tenders, prioritize companies / cooperatives that are run by women, and that have 30% participation of the female gender; as well as promoting from the point of view of urban plans, proposals are produced with a feminist urban planning perspective. Another experience in this regard is the recent and approved rental law since in its Art 17 it establishes a social rent (guarantees) and a quota for women in situations of violence. In Argentina, according to CELS, there are 8 million in tenant conditions. The recent Law (New Rentals Law - Law No. 27,551) has come to protect these tenants in some way, particularly in the context of the pandemic, however, like all Law, there is a distance between the rhetoric and the practice of the same. The Rentals Law must have follow-up and monitoring mechanisms for it to be effective. Women heads of households, older women (who, even according to census data, outlive men according to census data, however, in worse physical conditions than they, that is, in conditions of dependency in most cases), the lesbian and gay population, and in particular the trans and transvestite population. All this population listed are the ones that have the greatest difficulties in accessing a rental due to lack of formal jobs, guarantees, etc. LBGTIQ + groups in general suffer conditions of maximum vulnerability living in tenancies, hotels, without contracts and at the expense of the wills of those who rent.

It is noteworthy that in addition to the Rent Law, the national government in 2020 defined the Decree of Necessity and Urgency (DNU) during the pandemic - which protects and prevents evictions and controls the rise in rents. Decree 320/2020 extended the validity of real estate rental contracts whose expiration dates will take place from March 20 to September 30, generating prior mediation mechanisms in cases of conflicts between the parties and before resorting to judicial proceedings. provided for in each jurisdiction. All very interesting measures in the protection of those who have the least, however difficult to be able to exercise in the case of women in sole charge of their homes who live with pressing needs. As a product of negotiations between antagonistic interests, this law raises unavoidable contradictions in its provisions and, consequently, in its implementation. This manifests itself acutely at a time when tenant households face severe economic difficulties and demand urgent solutions. However, the creation of the rental registry, even though it is not operational for the emergency, is essential to design public policies for the sector and also deal with the structural. Without data, it is not possible to know who rents, under what conditions, what properties, where. From which emerges the urgency of having data disaggregated by sex, age, ethnicity, status of migrants, number of dependents, among others.

Similarly, another problem has been the occupation of land, which has had numerous expressions during the pandemic in Argentina, and before as well. All of these are structural problems of Latin American societies, with the greatest inequalities that are not only economic, but also of citizenship, lack of housing, services, infrastructure, security, etc. Ana Falú says: Today, faced with the pandemic, it is interesting to reflect on how much it affects women, at the intersection of genders and territories, far from a heteronormative conception of society.

**SPATIAL AND RESIDENTIAL SEGREGATION**

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

*India*

Orphans that amount to only 1 % of their total are brought up in Child Care Institutions. The rest grow up in streets or with foster parents and those who raise them for trafficking, slavery or organ trade when they grow up. In all cases they are segregated from their own biological family and in some cases abandoned by them as well.

*Mexico*

As anticipated, throw INFONAVIT and others instances have been offered to the working class for several years as almost the only option, the possibility of buying houses of 38-42 square meters on the outskirts of consolidated urban centers, dormitory cities that often do not have adequate services. nor with leisure and from which the transfers to the work centers take an average of one hour to go and one to return.

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

*India*

UNICEF has supported national research on aftercare that provides figures. Some PhD and other stand-alone research also mentions the loss of physical and mental health apart from all above losses mentioned.

*Mexico*

In Mexico the last census of 2020 determined that within the 6 million abandoned houses in the territory 650 thousand correspond to the beneficiaries of the Institute of the National Housing Fund for Workers (INFONAVIT).

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

India

The JJ Act has to be implemented in its spirit and allocations need to be made.

*Mexico*

The case of Mexico (enabled by the 1992 modification of Art. 27 of the Constitution allowing for appropriations of lands of social property) the policies derived from the Washington consensus (mentioned in the introduction) have led to the construction of immense complexes of up to 30 thousand houses each. The result has been an increase in housing production aimed at the working class, reaching a record of more than 500 thousand new homes a year. But it should be noted that most are built on the basis of changes in land use without justification in the corresponding planning instruments, and far from contributing to the integral development of the city and its inhabitants. A fragmented model is favored where the great beneficiary is the developer agent and profitability at the expense of the population[[5]](#footnote-5) that receives inadequate housing in size, location, services and articulation within the urban fabric.[[6]](#footnote-6)

This situation was strongly reflected in the official 2010 census, which estimated that 5 million homes, even though not all new, were uninhabited. Furthermore, new land occupations have not been prevented. This policy is settled, it leaves out the majority of poor Mexican households. The housing policy proposed in 2015 aims to reverse this situation through the densification of cities, without this being accompanied by a policy of generating legal, served and accessible land destined to the poorest or by instruments to control speculation. According to data from the Shadow Report that many more civil society organizations presented to the UN ESCR Committee in 2017, 76.2% of the employed population was unable to buy a home through the market or housing finance.

Faced with the difficulty of the population that does not work in the formal sector of the economy and / or that receives less than 5 minimum wages (population that was not served by housing policies) to access adequate housing, civil society organizations have promoted the production and social management of habitat. This form of housing production is recognized in the federal Housing Law. Over the years the resources allocated to this form of housing have been reduced but since the current government took office, in December 2018, we have witnessed very important advances in the recognition of the Social Production of housing with respect to previous administrations.

There is political will that we consider to be the result of intense lobbying activity on the part of various actors. Even so, at first glance there is a significant decrease in the number of actions promoted by the National Housing Commission (CONAVI) within the Social Housing, National Reconstruction and Emerging Housing programs, going from 94126 actions in 2019 to 67 740 in 2020. The responsible officials explain that the actions in 2019 were co-financed with state agencies and in 2020 there was only a subsidy from the federal government through Conavi. By 2021, it is planned to support a total of 83,552 families[[7]](#footnote-7) with federal subsidies for the construction, improvement or rehabilitation of their home. Considering that context, we must not forget that the 2020 census reported that 6 million homes in Mexico are empty which is a symbol of the failure of previous policies.

*Argentina*

In Argentina a great concern is the exclusion of cooperatives and self-managed habitat production modalities from current national housing policy designs. The popular movements that for decades fought and claimed the existence of a Ministry of Territorial Development and Habitat today are ignored by the current Minister of the sector as subjects of the habitat policy (which only channels through provinces, municipalities and traditional enforcement business systems or individual credits for the middle classes and formal workers). In this way, there is a wide segment of the population that does not live in popular neighborhoods (but in dispersed forms of popular habitat under different forms of more or less precarious rent and takeover of real estate, pensions, tenancies, etc.) nor is it a formal worker (only one 40% of the economically active population is) that remains in deficit and risk situations, deepened by the pandemic.

The political antecedents and the collective and organized forms of habitat production are ignored. There is also no provision of instruments for access to land for the cooperatives and collective modalities of Social Production of Habitat. Land is intended only for lots with services or formats whose recipients are families, considered in isolation and not in collective, organized, community options.

This is a critical aspect of current habitat policy design. **This individualization will reinforce the mechanisms of inequality and exclusion of large sectors that will not be involved in the desired reactivation of the market.**

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

*India*

The entity of the child in care has to be treated in an empowered way. To protect the rights of children who are institutionalised they need to be getting a status of being the ward of the state. The state in India is in a hurry to hand the child back to a family and absolving itself of its wardship role. Instead the child can be a lifelong ward of the state to inherit the work of managing state property that is looted by the political party leaders and officials.

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

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

*India*

The Guardianship Act does not specify the role of the State as a guardian.

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

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

Click here to enter text.

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

*India*

Youth Leaving Care associations are being formed in India. However, certain NGOs are utilising them for research and advocacy more than servicing the adequate housing needs of the care leavers.

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

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

Click here to enter text.

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

*India*

Situating Inheritance Rights of Care Leavers by Dr. Shivani Bhardwaj <https://www.academia.edu/37554299/Situating_the_Inheritance_Rights_of_Care_Leavers>

And Beyond 18 leaving child care institutions - UNICEF Udayan Care and Tata Trusts https://bettercarenetwork.org/library/principles-of-good-care-practices/leaving-alternative-care-and-reintegration/beyond-18-leaving-child-care-institutions-supporting-youth-leaving-care-a-study-of-aftercare

*Angola*

See attached article - *Housing for Whom: Rebuilding Angola’s cities after conflict and who gets left behind* by Allan Cain

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

*India – Care Leavers and Housing*

The above research has a section on housing

1. See article 2.1 of International Covenant on Economic, Social and Cultural Rights and the related General Comment No. 20 of the Committee on Economic, Social and Cultural Rights. [↑](#footnote-ref-1)
2. [Programa Nacional de Vivienda (PNV) 2019 -2024 | Sociedad Hipotecaria Federal | Gobierno | gob.mx (www.gob.mx)](https://www.gob.mx/shf/es/documentos/plan-nacional-de-vivienda-pnv-2019-2024?state=published). [↑](#footnote-ref-2)
3. https://www.inegi.org.mx/programas/enigh/nc/2018/ [↑](#footnote-ref-3)
4. <https://hic-al.org/wp-content/uploads/2018/12/Vidas-borradas-digital.pdf> [↑](#footnote-ref-4)
5. Eibenschutz Hartman, Roberto y Goya Escobedo, Carlos, *Estudio de la Integración Urbana y Social en la Expansión Reciente de las Ciudades en México 1996-2006: dimensión, características y soluciones*, Cámara de Diputados LX Legislatura, Secretaria de Desarrollo Social, Universidad Autónoma Metropolitana, México 2009, p. 97, disponible en: <http://biblioteca.diputados.gob.mx/janium/bv/ce/scpd/LX/estud_urb.pdf> [↑](#footnote-ref-5)
6. The typical lot, in which an average of 4 people live, has an area that varies between 57 and 71 m2. Travel times to work centers are up to 4 hours. Although there is a high level of coverage of basic services, there are still deficiencies in the quality and frequency with which the water is distributed, lack of storm drainage and wastewater treatment, and there are problems in public transportation, garbage collection, security inside the complexes and maintenance of lighting. In an analysis of more than 100 complexes that was dedicated to comparing how people lived before and after having acquired their home, a large majority reported that they had more space and that the finishes of the home were better. Ibid, pp. 26, 34, 52, 69, 146, 163. [↑](#footnote-ref-6)
7. [Anexo C Cifras Programas CONAVI.pdf - Google Drive](https://drive.google.com/file/d/1X0BsHXC3Mh2jYR-EttZW7Hvmxxv1sfvp/view) [↑](#footnote-ref-7)