**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:

**Name of individuals:** Valerie Lechene, Jona Noka, Uthra Varghese, Joshua Barnett

**Organization:** The Architecture Lobby (TAL), Racial Justice Campaign; <http://architecture-lobby.org/about/>

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: labor organizing

3. City/Town: New York City

4. State/Province: New York

5. Country (please indicate your region or “international” if focus the work of your organization covers multiple countries); United States, international (Canada, United Kingdom, Australia, New Zealand)

6. Contact email (will remain confidential) in case we have questions:

**INTRODUCTION**

The questionnaire has two parts: one focuses on histories and legacies of policies that have fostered distribution and spatial segregation thus preventing the enjoyment of the right to adequate housing (questions 7-12 under the category “Housing Discrimination” and questions 12-20 under the category of “Spatial and Residential Segregation”); the other parts seeks to identity policy and data based measures that foster the right to adequate housing (questions 21-27 under the category “Measures and Good Practices to Curb Discrimination and Reduce Segregation” and questions 28-30 under the category “Data on Discrimination in Housing and Spatial/Residential Segregation”). Our answers are foregrounded by four statements summarize here:

The first, written by Joshua Barnett, demonstrates how the right to adequate housing is rooted in poverty and its production by capitalist motives.

The second, titled “Policy Type” categorizes policies affecting the right to adequate housing. These categories are characterized by four criteria: directly and indirectly affecting housing; explicitly, and implicitly.

The third focused on one instance of indirect and implicit administrative policies affecting the right to adequate housing. It takes the form of a statement that draws connections between the right to adequate housing to other aspects of political life, namely the perpetuation of discriminatory spatial segregation at the planetary scale through the broad system of land use that is the nation-state as a socio-spatial administrative typology. The case for an internationalist just transition centered on housing is made in connection with the need to overcome the environmental and social degradation (as manifested by the Covid-19 pandemic) caused by unbridled capitalism manifested in industrial practices.

The fourth connects the right to adequate housing with conditions in the United States through the lens of recent events, namely the Covid-19 pandemic, its connection to environmental and social degradation caused by unbridled capitalism in extractive industrial practices. In addition, the discriminatory and segregatory aspects of the U.S. legal system and the barrier it continues to pose to communities structurally discriminated against and segregated is highlighted.

**1/ POVERTY IS HOUSING DISCRIMINATION**

Statement written by Joshua Barnett

I have been looking at the questionnaire, and it addresses the whole issue of housing discrimination in a very insightful way from a lot of important angles (30 questions). But through all the questions about discriminatory policies, laws, etc., what strikes me is that the main form of housing discrimination isn’t any overt housing or zoning regulations. It’s capitalism. It’s economic inequality. The struggles against legal and overt housing discrimination based on race, ethnicity, gender, sexual preference, immigration status etc., against red lining, restrictive convenants, predatory lending, have all been vital; the same with the struggles against unjust or civilian evictions, the right to legal representation in housing court, the for rent stabilization, rent control, basic housing conditions (rooms sizes, fire safety, heat, running water, hot water, toilet, the basic warranty of habitability), etc.

But at the end of the day the largest form of housing discrimination is simply whether or not someone can afford the rent or the mortgage, and that’s not legislated. That’s simply a function of housing being a commodity. Housing is not a right, certainly not in America. It’s a profit generating venture. There are no laws against anyone being rent or mortgage burdened (paying more than 1/3 of their income for rent). There are no regulations against market rate development, displacement, or gentrification. The “liberal” political establishment in New York City presents no challenge to market development or the effect of market forces on housing availability. They try (or pretend to) shore up the stock of affordable housing, but don’t rein in the market forces that are creating the lack of affordable housing in the first place.

With the advent of gentrification in the 80s as a product of real estate supplanting industry as a generator of profits, the introduction of gentrification as a serious shaper of the urban, suburban and exurban landscape, and the concomitant rise of homelessness, there has been a rise of recognizing the right to “shelter”, to not being forced to live on the street, but that, too, is a form of discrimination. Almost every major city has a department of homeless services, something that didn’t exist forty years ago. The fact that a portion of the population is permanently without housing has become accepted as a structural part of the urban landscape. But the right to “shelter” isn’t the same as the right to housing. The studies which show that it’s often more expensive to house a person or a family in a “housing hotel” or shelter or halfway house haven’t led to a move to cut municipal costs in the long run by providing housing. The powers that be would clearly rather pay more for “shelter” than establish a precedent for paying for housing as a human necessity, even if it actually uses less tax dollars in the long run.

Depending on the locality, the political forces at work and the political climate there both Republicans and to a greater Democrats, especially neoliberals, accept that a “tweaking” of market forces is necessary to provide housing at anything below median AMI, be it low income housing tax credits, FAR tradeoffs for affordable units, upzoning, development subsidies for “affordable” housing, etc., but that does little to offset the economic discrimination of the housing demand generally exceeding the supply, except where luxury housing is involved, and the market is overbuilt. That, of course, does nothing to offset the shortage of affordable housing, by any definition; trickle down economics doesn’t work any better in housing than it does with any other commodity (saying that building more high-end condos will alleviate a shortage of affordable housing is like saying producing more Rolex watches would make a Timex more affordable or more BMWs would make it easier to afford a Hyundai). Overbuilt luxury housing markets at the time of a bust simply lead to unbuilt or unsold condos.

Looking at the main form of housing discrimination takes on a different light if we see as if we were looking at what discriminates against owning good clothes, or being able to see a Broadway show, or having a fancy car, or eating healthy food, or attending an Ivy League college. There are no laws, per se, against any of it. But whether or not you can attend the theater instead of streaming a movie on Netflix depends simply on your ability to pay for a ticket or not. Housing, being a commodity, is really no different.

Of course in such a racist/xenophobic/misogynist society as ours this disproportionally hammers people of color, immigrants, and women, as Keeanga-Yamahtta Taylor described to devastating effect in *Race for Profit*. None of this is to disparage the struggles against repugnant redlining or predatory lending or discriminatory rental practices (The *Color of Law*, Richard Rothstein). But all I’m saying is that unequal distribution of wealth isn’t a legal policy anyone can point to as a de jure form of “discrimination”, but when rents rise in a gentrified neighborhood and working people, unemployed, underemployed, people on fixed incomes, etc., are forced out, it’s perfectly legal, but horribly discriminatory.

It’s easy enough to see why this would be discriminatory in cities like New York, San Francisco, Seattle or Boston where the economy is heated, land is scarce and real estate is hugely profitable. But even in cities with declining populations like Detroit or Buffalo huge numbers of people remain ill housed and rent burdened and denied access to “better” housing and neighborhoods based on their inability to afford the rents or mortgages that would gain them access to “better” housing and neighborhoods because the depressed economies in such cities denies the average working or middle class family access to the types of jobs that would provide access to better housing.

It’s only gotten worse as with the growing disparity of income and the rise of real estate as a central profit making venture. The gross and rising inequality of income that characterizes the US post-industrial, service-oriented gig economy is not a policy, per se. It’s not a regulation or a law. But the simple disparity between income and housing costs, coupled with the assumption that housing is inherently a profit-making venture (unlike, say, education, health care, transportation, libraries, parks, sanitation, etc., which are still largely ensconced among most of the population as public sector services paid for with taxes that don’t need to have a profit margin) make inequality probably the largest housing discrimination policy.

**2/ POLICY TYPES**

**Policies Directly and Indirectly affecting the Right to Adequate Housing**

Beyond this de facto form of discrimination towards indigenous communities, the United States’ legal system has been weaponized by policies that exclude non-white, non-male, non-heterosexual groups from equal enjoyment of the right to adequate housing. These policies can be categories in a two-pronged way:

(1.0) policies that **directly** affect the right to adequate housing, and

(2.0) policies that **indirectly** affect the right to adequate housing, by affecting adequate connection to the workforce, to education, to adequate information, to fair digital algorithms, to economic stability, to investment, and to a stable climate through a just transition, which is prerequisite to housing security.

**Policies Directly affecting the Right to Adequate Housing : Explicit & Implicit**

Policies that directly affect housing can also be characterized in a two-pronged way:

(1.1) **explicitly** discriminatory and segregatory housing policies, and

(1.2) **implicitly** housing policies that dilute and surreptitiously conceal exclusionary practices with terms such as “under the cover of technicality or overcrowding.”

**Ontological Security is Preconditioned by the Right to Adequate Housing**

As David Madden and Peter Marcuse express so clearly in their 2016 book *In Defense of Housing*, the residential is political. Furthermore, access to adequate housing is a crucial precondition for ontological security. Housing provides a lot more than just shelter. Housing is the pillar of social life.

**3/ HOUSING DISCRIMINATION & SEGREGATION AT THE PLANETARY SCALE**

**The nation-state and the multilateral international development framework foster planetary segregation**

The nation-state and its complementary framework of multilateral international development is discriminatory and designed to perpetuate spatial segregation. The nation-state, as a socio-spatial construct, was invented by Europeans and imposed on subaltern populations by Europeans through colonization motivated by resource extraction and capital gain and the ensuing process of decolonization. The nation-state itself is a discriminatory and segregative spatial typology, one that must be questioned towards the objective of fulfilling the human right to adequate housing by envisioning new typologies of rights based administrative practices. The nation-states produce statelessness. The nation-state justifies the unacceptable condition of apartheid. The nation-state prevents self-determination. The nation-state provides unequal access to justice. The nation-state is enabled by military practices that generate all sorts of precarity in conflict zones. The current nation-state based international administrative framework fosters free trade as opposed to fair trade; it also perpetuates an unequal valuation of primary resources and labor based on geographic location. The narrative of “developing” and “developed” nation-states fails at taking in consideration the numerous shortcomings of industrial development which prevents the enjoyment of the right to adequate housing because of its associated ruthless destruction of peoples and environment. Discrimination and segregation of bodies at the planetary scale can be overcomed through the project of a “just transition.”

**A “just transition” is necessary to significantly promote adequate housing globally**

To overcome housing precarity around the interconnected globe, the current UN’s special rapporteur on the right to adequate housing must collaborate with the current UN special rapporteur on extreme poverty, namly through the framework of his October 7, 2020 report titled *The “just transition” in the economic recovery: eradicating poverty within planetary boundaries* (http://www.undocs.org/A/75/181/REV.1). The greenhouse gas emissions produced by the industrial practices of “developed” countries create housing precarity in “developing” countries by creating environmental instability (disruptions in the ecosystem due to sea level rise, changes in temperature, pollution, etc). “Developing” countries are not only conditioned to follow a pattern of development that has immense shortcomings that are not sufficiently addressed; in addition, “developing” countries are suffering instability at the behest of “developed” countries, forced to become better at the game of the “developed countries” to be able to do anything against the environmental and social destruction preventing from enjoying the right to adequate housing.

**4/ HOUSING DISCRIMINATION & SEGREGATION IN THE UNITED STATES**

**Covid-19 and the right to adequate housing in the U.S.**

As Antony Fauci indicated in his co-authored September 2020 paper titled *Emerging Pandemic Diseases: How we got COVID-19* (https://www.cell.com/cell/pdf/S0092-8674(20)31012-6.pdf), Fauci illustrates how the rise in pandemic diseases is connected to environmental degradation. In the case of the Covid-19 pandemic, housing became a remedy. Housing was metamorphosed by the Covid-19 pandemic. Conventionally associated with kinship and social reproduction, the home became the only space safe of the virus while the street, public spaces, and mass transit became synonymous with contamination. Corporate campuses were no exception; their pre-networked infrastructure mutated overnight to accommodate working from home (WFH), enabling office workers to maintain capital gains while enjoying social distancing from the comfort of their home while poorer populations undertaking jobs deemed “essential” were indirectly forced into exposure. At once the least insured by the U.S. health system and the most financially vulnerable, essential workers could not afford the comfort of WFH, leading to rates of infection and deaths that do not match the duty of the wealthiest nation on planet Earth. To accommodate for the future lying ahead of us, housing needs justice, housing needs reform. Many are organizing around these issues. Elected officials are putting forward resolutions such as Alexandria Ocasio Cortez’s ‘Green New Deal for Public Housing’ and Ilhan Omar’s ‘Homes for All Act.’ Tenants are forming unions and organizing campaigns that sometimes manage to disrupt the profit motive driving real estate development. Information architecture can be a framework through which to build a media and knowledge-based coalition able to lift up citizens and non-citizens alike. Community lead design, co-ownership, networks of tenant organizations foster community lead design, and at once decarbonize the built environment.

**The U.S. Legal System is a Barrier in Itself**

The history of the U.S. legal and judicial systems demonstrates its exclusionary character; today access to justice remains difficult to access, requiring capital, time, and specific forms of knowledge. While the legal and judicial system prevent resolution of conflict through force and violence, it is neither adequately nor equally enjoyed by U.S. citizens.

The foundation of the U.S. legal system was designed by white male settlers originating from Europe using the English language and contextualized by the empire of the Commonwealth among other European empires. As such, the U.S. legal system *in itself* has been a barrier towards equal enjoyment of the right to adequate housing for any minority group on the basis of race, caste, ethnicity, religion, culture, language, gender, age, sexuality, and income.

**Toward an expanded definition of housing informed by indigenous communities**

The very establishment of the U.S. legal system was and continues to be a barrier towards the equal enjoyment of the right to adequate housing by communities whose ancestral land the United States occupies. The U.N. must expand its understanding of what housing means for indigenous communities in the U.S. and around the world. In most cases, the forest or the river is the house of a tribe; the symbiotic relationship indigenous communities have developed with their environment over thousands of years can inform an expanded understanding of housing, which must be recognized in the right to adequate housing.

**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

**Redlining**

The most notorious example of category 1.1, direct and explicit discrimination, is redlining. According to the U.S. Federal Reserve, redlining is “the practice of denying a creditworthy applicant a loan for housing in a certain neighborhood even though the applicant may otherwise be eligible for the loan; the term refers to the presumed practice of mortgage lenders of drawing red lines around portions of a map to indicate areas or neighborhoods in which they do not want to make loans.”[[2]](#footnote-2) Redlining was written into law in 1934 by the U.S. Federal Housing Administration (FHA) and dissolved by the Fair Housing Act in 1968.[[3]](#footnote-3) [Could be worth mentioning the Housing Act of 1949 The law facilitated a rise in homeownership and the building of huge public housing projects that would become fixtures in many American cities and these public housing developments were often pejoratively referred to as “The Projects” of “Ghettos”. In fact, because of projects like Lincoln Center, a New York City cultural development including 4400 apartments for which 7000 apartments were torn down, the Act's urban redevelopment programs actually destroyed more housing units than they built.] Redlining was enacted through the Mortgage Insurance Requirements.

Home Owner’s Loan Corporation as a means of mapping and grading more desirable areas. The practice involved categorizing neighborhoods based on color; green being the most desirable, blue next, yellow represented decline and red being the most hazardous. This system was used by the housing industry and mortgage companies to deny funding to people in areas that were redlined. This classification resulted in the systemic denial of services to poor and minority groups and discriminated against people of color. Redlined maps of America can be accessed here: <https://dsl.richmond.edu/panorama/redlining/#loc=5/39.1/-94.58>

**Zoning Resolutions - the most notorious examples of implicit laws**

New York City was the first to implement a citywide zoning code as a response to the public health concerns related to industrialization across the Americas and Europe. The Zoning Resolution of 1916, is one of the most important instruments that the city uses to regulate, develop and protect the land. This resolution was updated in 1961 and amended several times since. Despite the immense influence it has had in urban development nationwide and worldwide, the zoning and the housing policies derived from it, are often seen as inadvertently segregational and harmful to poor communities of color.

Because of the legacy of openly racist housing policies, New York City has inherited neighborhoods that are predominately white and, as a result, enjoy good infrastructure, recreational spaces, valuable property, good schools, etc. However, those neighborhoods that are predominantly non-white lack quality infrastructure and are deemed to require development, which leads to displacement of the people historically living in these neighborhoods. Many scholars and housing activists argue that while the Zoning Resolution or other policies are not explicitly racist, they still perpetuate inherited biases that prevent people from the equal enjoyment of the right to adequate housing.

In 2019, the Churches United for Fair Housing released the “Zoning & Racialized Displacement in NYC” report which analyzes two major rezonings in Park Slope and Williamsburg. The findings show that the rezoning resulted in a massive displacement of African American and Latinx families. The low income members of these communities that remained were those living in social housing.[[4]](#footnote-4)

The New York City Council published a report at the end of 2020 outlining the discriminatory impacts that rezoning policies have had on different neighborhoods. The proposal aims to address the inequalities of these policies and work towards creating a comprehensive legislation. [[5]](#footnote-5)

New York City Zoning Resolution was last amended in 2016, to include Mandatory Inclusionary Housing text, a landmark policy change of Major Bill DeBlasio[[6]](#footnote-6). This amendment requires that new developments have up to 30% of affordable housing depending on the income level. The way the Inclusionary Housing amendment is implemented is very important.

Related links:  
<https://www.manhattan-institute.org/deblasios-mandatory-inclusionary-housing-program#notes>  
<https://citylimits.org/2020/01/16/report-sees-de-blasios-mandatory-inclusionary-housing-falling-short/>  
<https://www.bloomberg.com/news/articles/2017-01-25/critics-of-new-york-city-s-zoning-history-sound-off>  
<https://static1.squarespace.com/static/5dc0429de5717c7ff1caead0/t/5de6c0e683bec649d37ab0cc/1575403753814/Zoning+and+Racialized+Displacement+in+NYC.pdf>

<https://council.nyc.gov/news/2020/12/16/planning-together/>

**Lack of legal protection against blockbusting**

Blockbusting is the practice of persuading owners to sell property cheaply because of the fear of people of another race or class moving into the neighborhood. Blockbusting enables real estate developers to profit by reselling properties at a higher price. This practice was partially hindered by the Fair Housing Act

How Real Estate Segregated America (Title VIII of the 1968 Civil Rights Act)[[7]](#footnote-7) but remains a practice in many parts of the United States.

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

*Accessibility*

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

*Habitability*

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

*Affordability*

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

*Security of tenure*

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

*Availability of services, materials, facilities and infrastructure*

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

*Location*

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

*Cultural adequacy*

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

Location is a key determinant of accessibility, affordability and habitability. The amplification of regional discrimination can be examined within the context of different boroughs in New York City. Each borough and each neighborhood within experiences different dimensions and degrees of discrimination in relation to adequate housing. In the South Bronx, limited resources, cleaning up, homelessness, urban renewal, crime, gentrification has resulted in more displacement. The construction of polluting and damaging infrastructures in areas where communities of color are causes inability to enjoy the right to adequate housing.

In the second half of the 20th century, the transportation plans to Robert Moses, namely with its highways, have caused the loss of housing by communities lacking access to the legal system through which they may have defended their rights.

In the Lower East Side of Manhattan there was an affordable housing lottery that discriminated based on household size. Lottery is a term that allows administrations to conceal its rules from citizens and the general public. This constitutes an implicit direct policy.

In Brooklyn, jewish orthodox households are not allowed in specific areas because families of a certain size are not allowed in certain buildings.

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?

**Relationship between affordability and the right to adequate housing**

People do not have access to capital and therefore people do not have access to adequate housing / to decent standards of living.

Laws that pretend to provide access to affordable housing by using such terms but which in fact only provide access to below market rate housing exacerbate discrimination because historically in the U.S. BIPOC has a much lesser access to capital.

**Legal definition of affordable housing**

**Area Median Income (AMI)**

The U.S. affordable housing programs are created through “area median income” (AMI) = the income of the family right in the middle of the income bracket[[8]](#footnote-8). It does not account of the

**Mandatory Inclusionary Housing (MIH)**

MIH required developer to set aside 25-30% of units in a new development as “affordable housing”

These programs are not sufficient and wash over the problem. They are labels that make developers feel good about putting up new buildings at market rates, which brings them profit. Real estate developers also often benefit from tax exemptions, which exacerbate dicrimination in relation to the right to adequate housing by subsidizing gentrification with taxpayer money, under the disguise of job creation and architectural supply. (loophole)

The problem is that the terms “affordable housing” are used but the practice does not result in affordability.

**Tax Exemption**

“The 421-a tax exemption is a property tax exemption in the U.S. state of New York that is given to real-estate developers for building new multi-family residential housing buildings in New York City. As currently written, the program also focuses on promoting affordable housing in the most densely populated areas of New York City. The exemption is granted for any buildings that add multiple new residential units, and typically lasts for 15 to 25 years after the building is completed. Longer exemption periods apply in less densely populated areas of the outer boroughs and upper Manhattan.”[[9]](#footnote-9)

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?

**Written into law vs written into the environment: ongoing legacies of racist and segregationist policies**

Changes in policy precede changes in the built environment. Changes in policy can be enacted much quicker than changes in environmental form. In addition, policy can easily be unenforced, especially in the case of corrupt complicity. Changes in the built environment require a large mobilization of capital and communities. These asynchronous temporalities can be challenging for the right to adequate housing. The law is gone but the legacy remains.

**The case for reparations**

Ta-Nehisi Coates, in his 2014 article[[10]](#footnote-10) published by The Atlantic, made the case for reparations made by the U.S. government for previously enslaved communities in the U.S. From this argument can be expanded a variety of initiatives: reparative housing to overcome systemic injustice towards black and brown communities in the U.S. and reparative narratives driving the framework of international development to overcome the current division between “developed” and “developing” countries.

**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?

Rezoning is one of the primary causes of gentrification which then in turn results in racial displacement. The narrative of “slum clearance”that fostered the destruction of Seneca Village to make room for Lincoln center is exemplary of how rezoning causes gentrification and displacement.[[11]](#footnote-11) In addition, the history of Tompkins Square Park riots in relation to housing squatting further informs how rezoning is never informed by the bottom-up but instead serves to profit those in power.

13. What impacts do these forms of spatial and residential segregation have on affected communities? Please point to indicators such as rates of poverty, unemployment 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).

**Education**

New York City is home to one of the largest public schools systems in the country but it is one that perpetuates segregation. Minority students are often denied access into specialized school programs. In the year 2019, 74% of students in the city experiences poverty, however; less than 50% of students at elite schools experience poverty.[[12]](#footnote-12)

**Infrastructure**

New York City’s wastewater infrastructure is made up of fourteen treatment facilities; only one of which is located in Manhattan. North River Wastewater Treatment plant is located in West Harlem right next to a residential neighborhood and Riverbank State Park renders the sanitation facility completely hidden to the general public. Pungent odors and toxic gases have polluted the air of the residents and park goers which have resulted in respiratory and digestive conditions.

**Health**

Medical studies show co-relations between the likelihood of developing certain diseases is higher in certain neighborhoods. This is prevalent in the racial clusters of New York as more disadvantaged neighborhoods are usually found closer to expressways resulting in more pollution. A study in 2020 stated that “African Americans are nearly 1.5 times more likely to develop asthma”.

In 2015, the Bronx suffered from an outbreak of Legionnaires’ disease due to contaminated cooling towers.

The riverbank state park - space supposed to be public on top of a sewage center - originally proposed to be on 34th street and moved to Harlem because the surrounding communities did not have access to the legal system that could have been activated to protect their health.

When mapped, soil pollution and other industrial pollution are paired with affordable and public housing.

When 311 complaints databases are considered, areas like the South Bronx have more complaints of heat/hot water, noise, plumbing, vermin etc. These factors illustrate how spatial segregation is anchored in housing.

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

Zoning resolutions, air rights, etc have exacerbated segregation. In Long Island City, a mainly industrial neighborhood was turned into a gentrified housing market through the provision of zoning resolutions. These policies are not scrutinized enough by human rights agencies.

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?

Real estate developers and their profit motive as supported by municipalities through tax rebates and other similar mechanisms have been drivers of spatial and residential segregation. In addition, the “developed” and “developing” framework central to international development has been driving this aspect without being connected with the narrative of neighborhoods in the U.S.

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?

**Ethnic Enclaves**

In sociology, the term ethnic enclaves is used to describe a geographic area with a high concentration of people sharing a similar cultural identity. This is a form of voluntary and involuntary segregation that takes place in different neighborhoods in New York City.

**Chinatown**The emergence of Chinatown in New York City is a result of a combination of racial discrimination and self-segregation. It also follows the logic of safety in numbers when immigrants are concerned. The Chinese Exclusion Act (1882-1943) forbade the naturalization for Chinese immigrants in the United States. This resulted in limited opportunities for growth for Chinese immigrants, therefore Chinatown became a self-supporting community where people could seek employment and live.

**Harlem**African American residents have populated Harlem since the 1630’s however the mass migration of Black families into the neighborhood took place in 1904.

**Covid-19**During the Covid-19 pandemic, white flight caused voluntary ethnic enclaves. Affluent whites migrated upstate New York or in Miami, leaving behind communities of essential and less financially equipped peoples.

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 are subject to discrimination and suffer adverse consequences from spatial segregation such as through disparities in access to services, infrastructure, living conditions, etc.?

The Chinatown Working Group’s[[13]](#footnote-13) work with the Two bridge development[[14]](#footnote-14) and its related zoning resolution[[15]](#footnote-15) is an extraordinary example of grassroots movement aimed at protecting cultural minorities in New York City.

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

Policies that intend to help but fail at achieving the results they set for themselves are the principal barriers to diminishing spatial including residential segregation.

In 2017, the East Harlem Rezoning[[16]](#footnote-16) was approved by the New York City Council. The East Harlem Rezoning is seen as problematic by housing activists, as it was set to help communities that it ended up hurting more than it did good, similarly as the Housing Act of 1949.

NYCHA is in a similar position. Too many people require housing: there are 200,000 people on NYCHA's waiting list. New York City Housing Authority needs greater organizational resources to be able to combat discrimination and segregation.

**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?

The Architecture Lobby (TAL) believes there is an urgent need to radically rework the building sector (architecture, engineering, and construction industries). Within the context of the United States, the Green New Deal legislation could be central to achieving such deep-rooted change. The original policy resolution H.Res.109 introduced to congress by Alexandria Ocasion Cortez and Ed Markey inspired many other aligned proposals. Here are policy proposals the TAL became particularly interested in since the release of H.Res.109 in February 2019.

**Green New Deal for Public Housing Act**

* Introduced to the Senate on November 14, 2019, Sponsored by Senator Bernie Sanders [I-VT], [S.2876](https://www.congress.gov/bill/116th-congress/senate-bill/2876)
* Introduced to the House on November 19, 2019, Sponsored by Representative Alexandria Ocasio Cortez [D-NY-14], [H.R.5185](https://www.congress.gov/bill/116th-congress/house-bill/5185)

**Homes for All Act**

* [H.R.5244](https://www.congress.gov/bill/116th-congress/house-bill/5244)   
  Introduced to the House on November 21, 2019

Sponsored by Representative Ilhan Omar [D-MN-5]

**PRO Act**

* Much of the GND is centered on fairer labor practices. Such changes can only be powered by organizing efforts beginning at the grassroots.

**President Biden’s American Jobs Plan**

* “Build, preserve, and retrofit more than two million homes and commercial buildings, modernize our nation’s schools and child care facilities, and upgrade veterans’ hospitals and federal buildings. President Biden’s plan will create good jobs building, rehabilitating, and retrofitting affordable, accessible, energy efficient, and resilient housing, commercial buildings, schools, and child care facilities all over the country, while also vastly improving our nation’s federal facilities, especially those that serve veterans.”

**Other interesting legislation inspired by the 2019 GND Resolution (H. Res. 109)**

1. [The BUILD Green Act](https://www.congress.gov/bill/117th-congress/senate-bill/874/text?r=1&s=3) (Levin, Warren, Markey & Ocasio-Cortez)
2. [National Climate Emergency Act](https://www.congress.gov/bill/117th-congress/house-bill/794/text?q=%7B%22search%22%3A%5B%22National+Climate+Emergency+Act%22%5D%7D&r=2&s=8) (Blumenauer, Sanders)
3. [Emergency Water is a Human Right Act](https://www.congress.gov/bill/117th-congress/house-bill/616/text?q=%7B%22search%22%3A%5B%22Emergency+Water+is+a+Human+Right+Act%22%5D%7D&r=1&s=9) (Tlaib, Dingell)
4. [Environmental Justice Mapping and Data Collection Act](https://www.congress.gov/bill/117th-congress/house-bill/516/text?q=%7B%22search%22%3A%5B%22Environmental+Justice+Mapping+and+Data+Collection+Act%22%5D%7D&r=2&s=10) (Bush, Markey, Duckworth)
5. [GND for Cities](https://bush.house.gov/sites/evo-subsites/bush.house.gov/files/evo-media-document/Bush.GND4Cities.FINAL_.pdf) (Bush, Ocasio-Cortez)
6. [Climate Smart Ports Act](https://www.dropbox.com/s/kxmjumucgx20y5d/Climate%20Smart%20Ports%202021%20Bill.pdf?dl=0) (Barragán, Merkley)
7. [Energy Resilient Communities Act](https://www.congress.gov/bill/117th-congress/house-bill/448/text) (Barragán, Clarke)
8. [Civilian Climate Corps](https://www.congress.gov/bill/117th-congress/house-bill/2670/text?r=5&s=7) (Ocasio-Cortez, Markey)
9. [End Polluter Welfare Act](https://www.sanders.senate.gov/wp-content/uploads/EPWA_2021-vfinal.pdf) (Omar, Sanders, Merkley, Markey, Barragán)
10. [EV Freedom Act](https://www.congress.gov/bill/116th-congress/house-bill/5770/text) (Levin, Ocasio-Cortez)

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?

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

The role of the media is crucial to the right to adequate housing. Digitization has transfigured the role of the media. In many cases, social media has powered new and effective forms of organizing. Groups like Design Justice Network, Human Rights Centered Design, Autonomous Tenants Unions Network are instances of media for justice, often related to the right to adequate housing.

Digital media is also a site of reinvention for education related to the production of housing with regards to the discrimination and segregation in the context of the right to adequate housing.

* Emergen Grounds for Design Education <https://eg-de.org/>
* Architecture Beyond Capitalism School <https://abc.architecture-lobby.org/>

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?

Practices fostering democratic participation in the production of housing are institutional mechanisms that can foster change in relation to the right to adequate housing. As such, Community Land Trusts, Housing Cooperatives, Tenant Unions and networks of tenant unions are measures TAL believes can be transformational for the housing sector.

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

A just transition (Green New Deal) for the building sector is the key to fostering housing supplies that overcome segregation and discrimination in relation to the righ tto adequate housing. The industrial lobbies that place decision making power in the hands of few and monopolize ressources prevent a just transition from happening are the principal barriers to system change required to overcome the twin crisis of social and environmental degradation.

**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?

Bush, Markey, Duckworth have assembled an [Environmental Justice Mapping and Data Collection Act](https://www.congress.gov/bill/117th-congress/house-bill/516/text?q=%7B%22search%22%3A%5B%22Environmental+Justice+Mapping+and+Data+Collection+Act%22%5D%7D&r=2&s=10) seeking to foster data collection for environmental justice.

In addition, the anti-eviction map project (<https://antievictionmap.com/>) is a dataset instrumental to counteracting Covid-19 related evictions.

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).

Alexandria Ocasio Cortez’s team published in September 2020 a campaign titled “Here to Stay”[[17]](#footnote-17) and aimed at counteracting gentrification from the ground up.made available to the wide public a variety of resources, namely:

* [A diagram explaining ULURP for private developments and neighborhood rezoning](https://d3n8a8pro7vhmx.cloudfront.net/bxcommunityvision/pages/25/attachments/original/1497126874/170519_ULURP_Diagram_Tabloid_03lk-MT.pdf?1497126874)
* How the Government Defines “Affordable Housing” vs. How We Define It ([click here for English](https://d3n8a8pro7vhmx.cloudfront.net/bxcommunityvision/pages/25/attachments/original/1490480812/Deep_Affordability_Term_Sheet_REV_127.pdf?1490480812), [click here for Spanish](https://d3n8a8pro7vhmx.cloudfront.net/bxcommunityvision/pages/25/attachments/original/1490480810/Spanish_Handout_VIO_for_Rezoning.pdf?1490480810))
* To research developers and landlords, try these sites: [therealdeal.com](https://therealdeal.com/), [newyorkyimby.com](https://newyorkyimby.com/), [NYC Finance Dept site](https://www1.nyc.gov/site/finance/index.page), and [Who Owns What](https://whoownswhat.justfix.nyc/en/)
* [Guide: What is a Public Scoping Hearing?](https://cdn.cosmicjs.com/32ec40b0-0346-11eb-9528-f5a6da2be217-Scoping-Hearing-One-Pager.pdf)
* [Guide: What is Environmental Review?](https://cdn.cosmicjs.com/331f3790-0346-11eb-9528-f5a6da2be217-ULURPEIShandout.pdf)

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?

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Further ressources:

* <https://mcharg.upenn.edu/blog/against-green-jim-crow>
* <https://aap.cornell.edu/news-events/andre-perry-know-your-price-devaluation-assets-black-communities>

1. See article 2.1 of [International Covenant on Economic, Social and Cultural Rights](https://drive.google.com/file/d/1800_gxzHLyS2Dw4cSxFVCXf49gdmQRkE/view?usp=sharing) and the related [General Comment No. 20](https://drive.google.com/file/d/1tRpj0-q-xVo4B0TE7gjksm16TM4FW1TS/view?usp=sharing) of the Committee on Economic, Social and Cultural Rights. [↑](#footnote-ref-1)
2. https://www.federalreserve.gov/boarddocs/supmanual/cch/fair\_lend\_fhact.pdf [↑](#footnote-ref-2)
3. https://en.wikipedia.org/wiki/Housing\_Act\_of\_1949 [↑](#footnote-ref-3)
4. https://static1.squarespace.com/static/5dc0429de5717c7ff1caead0/t/5de6c0e683bec649d37ab0cc/1575403753814/Zoning+and+Racialized+Displacement+in+NYC.pdf [↑](#footnote-ref-4)
5. https://council.nyc.gov/news/2020/12/16/planning-together/ [↑](#footnote-ref-5)
6. <https://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page> [↑](#footnote-ref-6)
7. https://www.dissentmagazine.org/article/how-real-estate-segregated-america-fair-housing-act-race [↑](#footnote-ref-7)
8. <https://d3n8a8pro7vhmx.cloudfront.net/bxcommunityvision/pages/25/attachments/original/1490480812/Deep_Affordability_Term_Sheet_REV_127.pdf?1490480812> [↑](#footnote-ref-8)
9. https://en.wikipedia.org/wiki/421-a\_tax\_exemption [↑](#footnote-ref-9)
10. https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/ [↑](#footnote-ref-10)
11. https://www.nytimes.com/2017/12/21/nyregion/how-lincoln-center-was-built-it-wasnt-pretty.html [↑](#footnote-ref-11)
12. <https://www.reuters.com/article/us-new-york-schools-racism/new-york-city-school-segregation-perpetuates-racism-lawsuit-contends-idUSKBN2B11WI>  
    <https://council.nyc.gov/data/school-diversity-in-nyc/> [↑](#footnote-ref-12)
13. <https://www.chinatownworkinggroup.com/the-plan> [↑](#footnote-ref-13)
14. <https://ny.curbed.com/2020/2/28/21156413/two-bridges-towers-lawsuit-lower-east-side-chinatown> [↑](#footnote-ref-14)
15. <https://zr.planning.nyc.gov/article-vii/chapter-8/78-313> [↑](#footnote-ref-15)
16. <https://zr.planning.nyc.gov/article-ii/chapter-3/23-154> [↑](#footnote-ref-16)
17. https://www.ocasiocortez.com/heretostay [↑](#footnote-ref-17)