

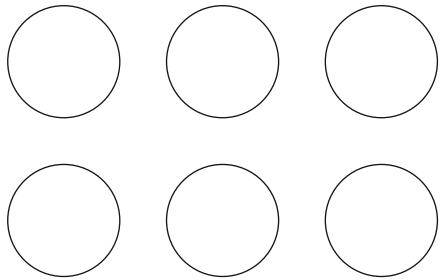
DEFENDING THE HOUSING RIGHTS OF CHILDREN



Centre on Housing Rights and Evictions (COHRE)
A project in collaboration with Cordaid (Netherlands)



JUNE
2006



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June 2006

Centre on Housing Rights & Evictions (COHRE)

COHRE International Secretariat

83 Rue de Montbrillant
1202 Geneva
SWITZERLAND
tel.: +41.22.7341028
fax: +41.22.7338336
e-mail: cohre@cohre.org
web: www.cohre.org

COHRE Housing & Property Restitution Programme (HPRP)

83 Rue de Montbrillant
1202 Geneva
SWITZERLAND
tel.: +41.22.7341028
fax: +41.22.7338336
e-mail: restitution@cohre.org

COHRE Women & Housing Rights Programme (WHRP)

Private Mail Bag CT 402
Cantonnements
Accra
GHANA
tel.: +233.21.238821
fax: +233.21.231688
e-mail: women@cohre.org

COHRE ESC Rights Litigation Programme (LP)

8 N. 2nd Avenue East
Suite 208
Duluth, MN 55802
USA
tel./fax: +1.218.7331370
e-mail: litigation@cohre.org

COHRE Right to Water Programme (RWP)

83 Rue de Montbrillant
1202 Geneva
SWITZERLAND
tel.: +41.22.7341028
fax: +41.22.7338336
e-mail: water@cohre.org

COHRE Global Forced Evictions Programme (GFEP)

PostNet Suite 247
Private Bag X9118
3200 Pietermaritzburg
SOUTH AFRICA
tel.: +27.33.3423437
e-mail: evictions@cohre.org

COHRE Americas Programme (CAP)

Rua Demétrio Ribeiro 990/202
90010-313 Porto Alegre, RS
BRAZIL
tel./fax: +55.51.32121904
e-mail: cohreamericas@cohre.org

CAP – US Office

8 N. 2nd Avenue East
Suite 208
Duluth, MN 55802
USA
tel./fax: +1.218.7331370
e-mail: bret@cohre.org (English)
e-mail: mayra@cohre.org (English or Spanish)

COHRE Asia & Pacific Programme (CAPP)

(Postal address) PO Box 1160,
Collingwood, VIC 3066
(visitors address) 124 Napier Street,
Fitzroy, VIC 3065
AUSTRALIA
tel.: +61.3.94177505
fax: +61.3.94162746
e-mail: cohreasia@cohre.org

COHRE Africa Programme

Private Mail Bag CT 402
Cantonnements
Accra
GHANA
tel.: +233.21.238821
fax: +233.21.231688
e-mail: cohreafrica@cohre.org

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Foreword by the Executive Director of COHRE

Every child deserves a safe place to call home. Yet, in all parts of the world, hundreds of millions of children of all ages come home every day to a house in such appalling conditions that it threatens their very health and well-being. Worse yet, millions more children have no place to come home to at all. In major cities all over the world, housing poverty forces children to eke out the most meagre of possible existences on dangerous streets.

Until quite recently, the international community did not fully recognise that children, too, have human rights. The adoption of the United Nations Convention on the Rights of the Child was a historical watershed, not only because it articulated the need to protect children from harm but, even more importantly, because it established concrete rights that all children have by virtue of their common humanity. With those rights came the obligations of States to take children's human rights seriously, and to effectively respect, protect and fulfil those rights in the best interests of the world's children.

While the Convention on the Rights of the Child stands as an important achievement in the human rights field, the truth remains that children continue to suffer horrendous human rights abuses in all parts of the world. This is certainly true when it comes to housing rights violations. Children suffer both physical and psychological trauma as a result of forced eviction. In the world's slums they are prone to sickness and disease (that is, if they are fortunate enough to survive past the age of five). They undergo the hardships of homelessness and life on the street, experiencing all manner of exploitation and abuse.

Almost invariably, the majority of those who suffer the brunt of housing rights violations are children; their housing rights are too often neglected within international and national policy circles. These rights must be seen as central to the security and well-being of children, and therefore pivotal to children's rights advocacy. We must all work together – children's rights advocates and housing rights advocates alike – to make sure that children's housing rights become a visible part of our work. Indeed, many organisations around the world have already taken up this work with great success, and we have much to learn from their achievements and experiences.

The project to promote children's housing rights that has culminated in this report could not have been effective without the support of several partner organisations in various parts of the world who have generously provided relevant information at all stages of the research. COHRE is indebted to them for their contributions and inspired by their efforts to ensure that all children are adequately housed, protected and provided with a brighter future.

COHRE is also deeply grateful to Cordaid for its generous support of this project. Cordaid has taken a uniquely collaborative approach to this work, and has provided exceptional guidance and encouragement at all stages of the project. We thank Cordaid for its engagement, and its continued commitment to the housing rights of children.

*Scott Leckie, COHRE Executive Director
Bangkok, Thailand
15 June 2006*

See: <http://www.cohre.org>

Foreword by the General Director of Cordaid

Everyone has the right to a decent human life without poverty. This includes people living with HIV/AIDS, slum dwellers, and street vendors. Cordaid, an international development organisation based in the Netherlands, devotes its heart and soul to the poorest and those who are deprived of their rights in over 40 developing countries.

Throughout the world, 1.2 billion people have to get by on less than a dollar a day, 40 million people are infected with HIV, and 800 million people suffer from hunger. Cordaid finds this unacceptable.

To fight these injustices, we place faith in people's strength as individuals and when they organise themselves and join forces. For this reason, we work together with strong organisations rooted in their own societies. These organisations operate to further Cordaid's guiding principles: less poverty in the cities, higher income for the poor, better health care and sustainable peace.

Children and young people are 'actors of change'. It is important to support them in empowering themselves because they are tomorrow's community leaders. Empowerment refers to the circumstances and factors that enhance the development of citizenship and productiveness, as well as participation, among children and young people on their way into adulthood. Development not only requires that the poor be empowered; there is also an urgent need for reform of economic and political structures to foster good governance, to create equitable economic and trade relationships, and to stop the ongoing exploitation of nature and humanity. We therefore take a stand against political decisions and developments that impede justice. That is why Cordaid is pleased to support COHRE in this research project on children and their housing rights. We congratulate COHRE on the completion of this publication and will share it with the donors who contribute to our 'Children's Voice' fund.

Cordaid can count on half-a-million donors in The Netherlands who support our work through these funds. Thanks in part to them, we have a yearly budget of about 150 million euros, which we can devote to projects in developing countries. We achieve concrete results with these projects. We can make a difference, even for the individual child of the slums — because the world belongs to each and every child.

*Rene Grotenhuis, CORDAID General Director
The Hague, The Netherlands
15 June 2006*

See: <http://www.cordaid.com> (English webpages: <http://www.cordaid.com/index.asp?mID=10182>)

Cordaid is one of the largest international development organisations in the Netherlands. Together with more than a thousand local organisations, Cordaid fights poverty and injustice in over forty countries throughout Africa, Asia, Latin America, the Middle East, Central and Eastern Europe and the Netherlands.

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COHRE would like to thank all those individuals and organisations who have contributed in various ways to this report on children’s housing rights. In order to facilitate broad consultation on the issues and themes raised in this report, COHRE prepared a ‘Children’s Housing Rights Questionnaire’ for distribution to grass-roots organisations and other agencies around the world that are on the frontline of children’s rights advocacy. The organisations and agencies that collaborated with COHRE in this endeavour present a range of expertise, working at various levels, to improve the lives of street children and other vulnerable children in all parts of the world. We are deeply indebted to each of them for the information and experiences that they shared with COHRE during the course of the research and in preparing this report for publication. Their information has greatly helped us to shape the analysis of children’s housing rights as reflected in this report.

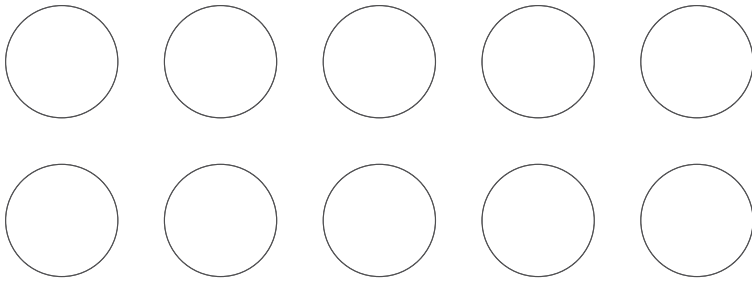
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- Bahay Tuluyan (*Philippines*)
- Coalition for the Urban Poor (CUP) (*Bangladesh*)
- Comissão Pastoral da Terra - Pernambuco (CPT/PE) (*Brazil*)
- Families and Children for Empowerment and Development (FCED) (*Philippines*)
- Federacion Uruguaya de Cooperativas de Vivienda por Ayuda Mutua (FUCVAM) (*Uruguay*)
- Fundação de Assistência Social e Cidadania Prefeitura Municipal de Porto Alegre (*Brazil*)
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- Município de Porto Alegre (*Brazil*)
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- Pilot Centre for Educational Programming – Yaounde (*Cameroon*)
- Rede Nacional de Advogados e Advogadas Populares – Pernambuco (RENAP/PE) (*Brazil*)
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- Society for Community Empowerment and Urban Transformation (Saahasee) (*India*)

COHRE would also like to thank those who have served on the advisory committee of this project, including Laura Theytaz (NGO Group for the Convention on the Rights of the Child), Nadine Perrault (UNICEF), Lesley Miller (UNICEF) and Melanie Gow (World Vision). Their interest in, and commitment to, COHRE’s work on behalf of children’s housing rights is also greatly appreciated.

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Finally, COHRE would again like to extend its heartfelt thanks to Cordaid, whose generous support of this project and whose commitment to children’s human rights made this work possible.



A child in Wagon Colony, Rawalpindi, Pakistan. Her community has been threatened with forced eviction several times.

Executive summary

Inevitably, in all parts of the world, children are those who are most affected by violations of housing rights. Today, there are estimated to be approximately 150 million street children worldwide.¹ They range in age from three to eighteen years. About 40 percent of these children are actually homeless, often living alone without anyone to look after them.² Homeless children are forced into a precarious existence on the streets. This not only violates their right to adequate housing, but also threatens their right to personal security, their right to education, their right to the highest attainable standard of health, their right to freedom from exploitation, and – in far too many cases – even their right to life.

These figures, although staggering, do not include the millions of other children throughout the world who may not be homeless but nonetheless face other violations of their housing rights. In its *State of the World's Children 2005* report, the United Nations Children's Fund (UNICEF) revealed that more than one out of every three children in the developing world – approximately 640 million children – do not live in adequate housing.³ One in five – approximately 400 million children – do not have access to safe drinking water.⁴ The existence of millions of street children and the huge extent of child homelessness are arguably the most visible and dire violations of children's housing rights, yet all violations of housing rights, from forced eviction to inadequate housing conditions, have particular ramifications for children.

Protecting children's housing rights is a pressing concern in all parts of the world – whether in the North or the South. If their housing rights are not protected, children suffer horrific consequences, of which the following are just illustrative examples. In Zambia, thousands of children have been orphaned by the HIV/AIDS

1 UNESCO, 'Education: Who Are Excluded and Why?' (2004), http://portal.unesco.org/education/en/ev.php-URL_ID=28705&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html

2 Ibid.

3 UNICEF report, *State of the World's Children 2005*, Dec. 2004, http://www.unicef.org/publications/index_24432.html

4 Ibid.

pandemic; with nowhere to go, they line the streets of the capital, Lusaka, every evening.⁵ In Guatemala, hundreds of street children and homeless children have been murdered by armed vigilante groups with ‘social cleansing’ on their ruthless agenda.⁶ In the United States of America, poor children living in inadequate inner-city housing are more likely to miss school and to develop chronic health conditions such as asthma in an allergic reaction to the excrement of cockroaches, mice and other vermin.⁷ In the United Kingdom, one in twelve children will develop diseases such as bronchitis, tuberculosis or asthma because of inadequate housing.⁸ In India, some 18 million children are ‘pavement dwellers’, living out their childhood on the streets of major cities.⁹ Roma children in European countries including Bulgaria, the Czech Republic, Greece, Italy and Poland live in substandard housing and face violence during forced evictions at the hands of State officials and racist groups.¹⁰

These examples highlight the broad scope of housing rights violations that children suffer — violations that, unfortunately, are not unique and not limited to any particular region of the world. Indeed, violations of children’s housing rights are often *at the root* of childhood vulnerability and exposure to violence.

This COHRE report examines the many ways in which children suffer violations of their housing rights. It also highlights the international human rights standards that are intended to protect the housing rights of all the world’s children. As this report illustrates, all States and the international community as a whole are obligated to ensure that children’s housing rights are respected, protected and fulfilled — without discrimination. The United Nations Convention on the Rights of the Child (CRC) is the world’s most widely ratified human rights treaty to date; only two countries have yet to ratify it. Nevertheless, an enormous amount of work remains to be done to transform this global undertaking into actual realisation of human rights for all children.

From 8 to 10 May 2002, more than 7 000 people participated in the most important international conference on children in more than a decade, the Special Session of the United Nations General Assembly on Children. There, the nations of the world committed themselves to striving for a series of goals to improve the situation for children and young people (*see Appendix 3, UN General Assembly resolution on ‘a world fit for children’*). Following the Special Session, the United Nations General Assembly adopted resolution S-27/2, calling upon all members of society to join a global movement that would “help to build a world fit for children”.¹¹ COHRE is convinced that protecting the housing rights of children is an essential element of this vision, a necessary step towards ensuring that children are able to enjoy all their human rights in safety, security and dignity. If we can resolve the present crisis of children’s housing rights, we can indeed go far in creating a world fit for children.

5 UNICEF (M. Lemba, Project Concern International Zambia), ‘Evaluation Report: 2001 ZAM: Rapid Assessment of Street Children in Lusaka’ (UNICEF, 2001), http://www.unicef.org/evaldatabase/index_14393.html

6 Guatemala Human Rights Commission – USA, ‘More Violence Against Children’, *Guatemala Human Rights Update*, Vol. 17, No. 9 (1 May 2005), <http://www.ghrc-usa.org/Publications/vol17no09.pdf>

7 National Organization of African Americans in Housing (NOAAH), ‘Healthy Homes Initiative: Pests’, <http://www.noaah.org/pesthomes.cfm>

8 BBC News, ‘Million children in poor housing’, 15 Apr. 2004, http://news.bbc.co.uk/2/hi/uk_news/3627805.stm

9 Human Rights Watch Children’s Rights Project (Arvind Ganesan), *Police Abuse and Killings of Street Children in India* (New York: Human Rights Watch, Nov. 1996), <http://hrw.org/reports/1996/India4.htm>

10 European Roma Rights Center, <http://www.errc.org>

11 UN General Assembly Resolution, ‘A World Fit for Children’, UN Doc. A/RES/S-27/2, 11 Oct. 2002., http://www.unicef.org/specialsession/docs_new/documents/A-RES-S27-2E.pdf, *see App. 3 of this report.*

As this report also highlights, the right of children to adequate housing is intimately connected to their rights to life, to the highest attainable standard of health, to freedom from exploitation, to education, and to be free from torture and other cruel, inhuman or degrading treatment or punishment. Children without a stable, habitable place to live are extremely vulnerable to human rights violations of all kinds.

This COHRE report begins with an overview of children's housing rights under international human rights law, underscoring the major international human rights principles and standards that can be effectively invoked to protect these rights. The report goes on to address the obligations of States under international human rights law, focusing on their duties to respect, protect and fulfil children's housing rights, including the obligation to protect children and their families from forced eviction, and the obligation to take positive measures aimed at ensuring that all children have an adequate place to call home. The report also speaks to specific groups of children, including street children and homeless children, refugee and displaced children, girl children and others who are especially vulnerable to violations of housing rights, as well as those who have unique experiences in relation to such violations. Furthermore, this report analyses the indivisibility of children's rights, highlighting the many ways in which violations of children's housing rights affect the realisation of other rights.

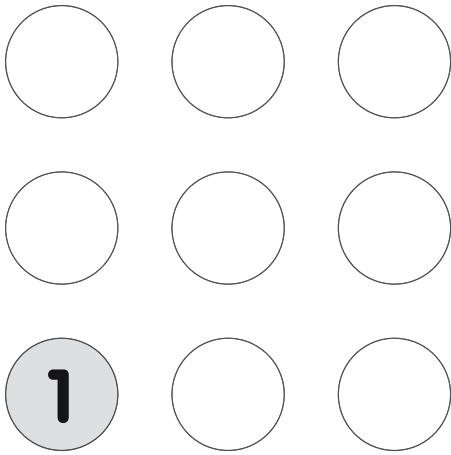
Perhaps most significantly, however, this report elaborates on the question of what housing rights must mean for children themselves. In order to protect children's housing rights as effectively as possible, States should start from the children's standpoint, taking account of their rights to non-discrimination, to survival and development, and to participation. At all times, States and other relevant actors should be guided by the best interests of children and act in conformity with that principle. In consideration of that imperative, in this report COHRE reaches a series of well-founded conclusions and makes specific recommendations to States regarding protection of children's housing rights.

In particular, COHRE concludes that addressing both acute and chronic housing rights violations suffered by millions of children throughout the world is the key to ensuring their long-term security and well-being. Not only do housing rights violations almost inevitably expose vulnerable children to exploitation and abuse, they also pave the way for further rights violations. With sufficient political will and effort, violations of children's housing rights can be effectively prevented and remedied. Relatively small and inexpensive measures can be taken to significantly upgrade the living conditions of children in inadequate housing, and successful programmes can be put in place to provide shelter to homeless children.

COHRE recommends that States undertake the following measures to protect children's housing rights:

- Ratify key international human rights treaties.
- Develop and implement a national strategy for the realisation of children's housing rights.
- Incorporate a child-friendly perspective into existing housing policies.
- Ensure that every child has access to water and sanitation.
- Provide security of tenure to children and their families.
- Prioritise vulnerable children in all matters related to housing.
- Provide housing assistance and support to disadvantaged children.
- Prioritise child safety and health in all matters related to housing.
- Eradicate housing discrimination for all children.
- Report on the situation of children's housing rights to the UN Committee on the Rights of the Child.

COHRE gratefully acknowledges all of the children’s rights organisations in various parts of the world which have contributed important information that is included in this report. This work would not have been possible without their generous support. We hope that this report does justice to the tremendous work that these organisations do in protecting children’s housing rights in all regions of the world.



A toddler living in inadequate housing in the slums of Manila, the Philippines. UNICEF estimates that 5.85 million children live in Manila's slums, many under constant threat of violent evictions.

Introduction

“Adequate housing fosters family integration, contributes to social equity and strengthens the feeling of belonging, security and human solidarity, which are essential for the well-being of children.”

— Declaration: A World Fit for Children ¹²

Millions of children around the world live in abysmal conditions. They live in homes with no running water, no toilets, no heating in the winter and no cooling in the summer, where there is no place to quietly sit and read a book or do homework. They live in neighbourhoods that have no school, no health clinic and no playground. Millions of children live in areas where it is not safe to go outside, where dangers lurk in what should be safe havens for children. Millions of children live among populations ravaged by communicable and preventable diseases, and each year millions of children suffer from diarrhoea, intestinal parasites and

¹² Outcome Document of the UN Special Session on Children, contained in 'Report of the Ad Hoc Committee of the Whole of the twenty-seventh special session of the General Assembly', Supplement No. 3, UN Doc. A/S-27/19/Rev.1, 10 May 2002, p. 10, <http://www.unicef.org/specialsession/documentation/documents/A-S27-19-Rev1E.pdf>

acute respiratory infections caused in large part by inadequate housing conditions. In fact, data consistently show that infant mortality rates in urban slums, where overcrowding and poor hygiene conditions are common, are often two to three times higher than national averages and are generally higher than in impoverished rural areas.¹³

Children's housing rights can be violated in a myriad of ways. When considering the issue of children and housing rights, people usually think of homeless children who lack a roof over their heads and a safe place to sleep at night. It is certainly true that child homelessness represents an egregious violation of children's housing rights, and that millions of children throughout the world do not have a home to call their own. Yet, millions more children suffer due to chronic housing poverty. Even though children who live in inadequate housing may technically have a roof over their heads at night – no matter how ineffective and flimsy it may be – they face many of the same problems as do children who live on the streets. For both groups, not having a safe, adequate home compromises their physical and mental well-being, renders them vulnerable to violence and disease, and threatens to cut short their lives. In addition, inadequate housing conditions ranging from overcrowding to lack of affordable housing push children out of the home at an early age. Housing poverty is a substantial 'push factor' for children taking to the streets in order to support themselves and their families.

Too often, the right to adequate housing is considered to be merely an ideal or an aspiration, rather than being recognised as a fundamental human right. For children, probably more so than for any other group, this misunderstanding of international human rights is a matter of life and death. Adequate housing is not to be dismissed as a mere luxury for a fortunate minority of the world's children; it is basic to the survival and healthy development of all children, and has consistently been recognised and reaffirmed as a human right by the international community. In fact, adequate housing is inextricably related to a child's inherent right to life, and his or her social, spiritual and moral well-being and development, as well as his or her physical and mental health. Housing rights are not peripheral to the full realisation of children's rights; they are pivotal to it.

In the Universal Declaration of Human Rights, the United Nations proclaims that childhood is entitled to special care and assistance. Furthermore, the United Nations Convention on the Rights of the Child recognises that children living in exceptionally difficult conditions are entitled to special consideration. In this regard, the duties of States are clear, and international human rights bodies have reminded them of their obligation to devote the maximum extent of available resources to ensuring children's rights to an adequate standard of living and the continuous improvement of living and housing conditions.¹⁴

This report illustrates the many ways in which children throughout the world suffer housing rights violations, whether due to poverty, forced eviction, displacement, discrimination, domestic violence or the HIV/AIDS

13 For example, the UN has reported that children in the slums of Nairobi, Kenya, suffer mortality rates much higher than rural Kenyan children: UN Statistics Division, Department of Economic and Social Affairs, 'Progress towards the Millennium Development Goals, 1990-2005: Goal 4 – Reduce child mortality', http://unstats.un.org/unsd/mi/goals_2005/goal_4.pdf. See also: Sarah Fry, Bill Cousins, and Ken Olivola, 'Health of Children Living in Urban Slums in Asia and the Near East: Review of Existing Literature and Data', Environmental Health Project, Activity Report 109, May 2002, http://www.ehproject.org/PDF/Activity_Reports/AR109ANEUrbHlthweb.pdf; S. Agarwal and S. Taneja, 'All Slums are Not Equal: Child Health Conditions Among the Urban Poor', *Indian Pediatrics*, Vol. 42, No. 3 (March 2005), pp. 233-244, <http://www.indianpediatrics.net/mar2005/233.pdf>

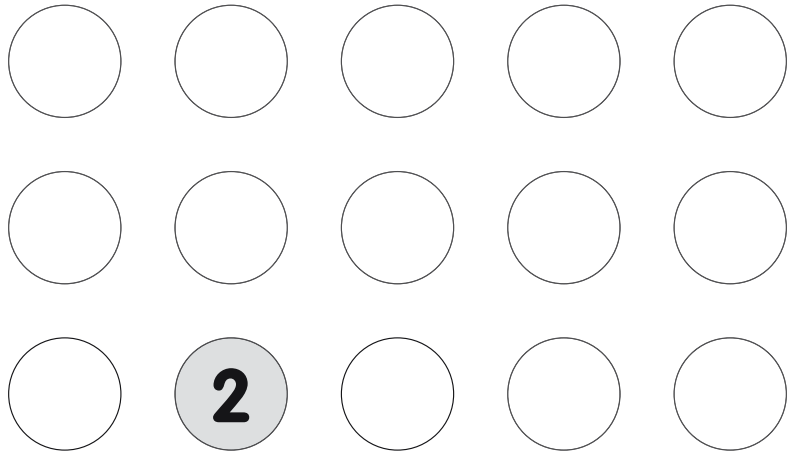
14 Sub-Commission on the Promotion and Protection of Human Rights (formerly Sub-Commission on Prevention of Discrimination and Protection of Minorities), 'Children and the right to adequate housing', UN Doc. E/CN.4/Sub.2/RES/1994/8 (19 Aug. 1994), <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/d3ff5ced0729a108802566ff0055de4e?Opendocument>

pandemic, or a combination of these factors. It also shows how violations of children's housing rights are intimately connected to their rights to education, health, freedom from exploitation, freedom from torture and ill-treatment, and even the right of every child to life itself. This report seeks to highlight the importance of children's housing rights by focusing on the causes and consequences of violations of those rights, and by underscoring that when children have an adequate place to live, they are better able to play, to learn and do well in school, to develop a sense of security and self-confidence, and to have healthy childhoods.

The problems and challenges of protecting children's housing rights around the world may seem enormous, even overwhelming, but the truth is that violations of such housing rights can be effectively prevented and remedied. They must neither be dismissed nor excused; the street children in so many of the world's cities must not be accepted as a natural or inevitable phenomenon. We must not turn a blind eye to the horror of children living, and dying, in squalid conditions. Relatively small and inexpensive measures can be taken to make a significant improvement to the living conditions of children in inadequate housing, and successful programmes can be put in place to provide homes for homeless children. Although addressing and surmounting this global challenge will certainly require the dedication of adequate resources, it will – most importantly – require a sense of commitment from the international human rights community, from international organisations and agencies, and from national as well as local governments. It will require sustained political will. If and when we make children's housing rights a real priority, we will drastically improve the lives of millions of children and help ensure that they are able to lead healthy, happy and secure lives.



A Sri Lankan girl displaced by the tsunami that struck Southeast Asia on 26 December 2004, destroying the traditional fishing community where she lived. At the time this photo was taken, she and her family were living in a UNHCR camp for internally displaced persons.



Children’s housing rights under international human rights law

“A century that began with children having virtually no rights is ending with children having the most powerful legal instrument that not only recognises but protects their human rights.”

— Carol Bellamy, former UNICEF Executive Director ¹⁵

2.1 THE RIGHTS OF THE CHILD

Children’s human rights are well protected under international human rights law and related standards. These standards recognise that all children have a right to adequate housing. For example, the United

15 UNICEF, ‘Convention on the Rights of the Child: Introduction’, <http://www.unicef.org/crc/crc.htm>

Nations Declaration on the Rights of the Child, which was adopted in 1959, proclaims in Principle 4 that:

*The child shall have the right to adequate nutrition, **housing**, recreation and medical services.¹⁶ [Emphasis added.]*

The Declaration also stipulates in Principle 2 that:

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him [or her] to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.¹⁷

The principle of ‘the best interests of the child’ is a critical one for policy-makers to remember when it comes to issues of children’s housing rights and the improvement of human settlements around the world. This principle has been central to the development of children’s human rights under international law, and was incorporated prominently into the most well-known and widely accepted international human rights legal instrument, the United Nations Convention on the Rights of the Child (‘the Convention’).

The Convention has been ratified by an unparalleled number of countries – 192 of them – and is the “most universally accepted human rights instrument in history”.¹⁸ Only two countries, Somalia and the US, have yet to ratify the Convention.¹⁹ This unprecedented level of international commitment is truly extraordinary and points to the willingness of most every country in the world to legally commit itself to safeguarding the human rights of children.

Article 27 of the Convention clearly protects the housing rights of children and states that:

1. *States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.*

...

3. *States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and **housing**. [Emphasis added.]*

Thus, States Parties undertake to make the full realisation of housing rights a reality for children.

16 Declaration of the Rights of the Child, proclaimed by General Assembly resolution 1386(XIV) of 20 Nov. 1959, <http://www.unhchr.ch/html/menu3/b/25.htm>

17 Ibid.

18 Convention on the Rights of the Child, GA res. 44/25, annex, 44 UN GAOR Supp. (No. 49), p. 167, UN Doc. A/44/49 (1989), entered into force 2 Sept. 1990, <http://www.unhchr.ch/html/menu3/b/k2crc.htm>. See also: UNICEF (n. 15 above).

19 Both Somalia and the US are signatories to the Convention, indicating their intention to ratify it.

In addition, the Convention expressly provides for a wide range of rights that are intimately related to housing rights, including:

- the right to non-discrimination (Art. 2);
- the right to life (Art. 6);
- the right not to be subjected to arbitrary or unlawful interference with privacy, family and home (Art. 16);
- the right to protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (Art. 19);
- the right to special protection and assistance in cases where a child is temporarily or permanently deprived of his or her family environment (Art. 20);
- the right to the highest attainable standard of health (Art. 24);
- the right to benefit from social security (Art. 26);
- the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Art. 27);
- the right to education (Art. 28);
- the right to engage in play and recreational activities (Art. 31);
- the right to be protected from economic exploitation (Art. 32);
- the right to be protected from all forms of sexual exploitation and sexual abuse (Art. 34); and
- the right to be protected against torture or other cruel, inhuman or degrading treatment or punishment (Art. 37).²⁰

Many of these children's rights tend to be violated simultaneously with children's housing rights; many are jeopardised *as a result of* children's housing rights being violated.

The principle of the indivisibility of children's rights is illuminated when the reality of children's lives is seen through the lens of housing rights. Article 24 of the Convention stipulates that:

2. States Parties shall pursue full implementation of this right [of the child to the enjoyment of the highest attainable standard of health] and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

...

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

This provision is especially relevant to children living in inadequate housing conditions; for example, in urban slums where clean drinking water is often inaccessible and environmental degradation is the norm. The right of children to the highest attainable standard of health and their right to adequate housing are closely connected. This is especially true for the world's poorest children.

²⁰ Convention on the Rights of the Child (n. 18 above).

The Convention on the Rights of the Child is an extremely useful standard when it comes to advocating for children's housing rights, including their universality and their indivisibility from other rights. Indeed, the United Nations Committee on the Rights of the Child (the expert body that monitors implementation of the Convention) has recognised that:

*In the light of the pervasiveness of the phenomenon of homelessness and inadequate housing, which occurs in all parts of the world and affects developing as well as developed countries, the Committee deems it important to emphasise the universal character of the right to housing. It applies to every child, without restriction or distinction of any kind*²¹

The 'non-discrimination article', Article 2 of the Convention, requires States to:

*... respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*²²

This provision is critical to the protection of children's housing rights, which cannot be abridged or denied, whatever the social status of a child and his/her family. Nevertheless, in all parts of the world, children suffer housing rights violations disproportionately because of entrenched patterns of social discrimination.

The Convention requires States to analyse how each housing policy decision is likely to affect children, to act consistently in ways that will be in their best interests, to allow them to participate in housing policy decisions that affect them, and to prevent and remedy violations of their housing rights by all appropriate means. The principle of acting in the 'best interests of the child', which was first articulated in the Declaration on the Rights of the Child and which pervades the letter and spirit of the Convention, must inform the way national authorities consider questions related to housing policy. Within the scope of the Convention, this standard applies both to government policy-making and to official decisions made that affect individual children or groups of children. Article 3(1) requires that:

*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*²³

Because the principle of acting in children's best interests is meant to be broad in scope, it applies to budget allocations, law-making and government administration.²⁴ As the UN Committee on the Rights of the Child has stated:

Every legislative, administrative and judicial body or institution is required to apply the best interests principle by systematically considering how children's rights and interests are or will

21 Statement by the Committee on the Rights of the Child to the second UN Conference on Human Settlements (Habitat II), contained as annex VIII in 'Report on the eleventh session of the Committee on the Rights of the Child', 22 March 1996, UN Doc. CRC/C/50, <http://193.194.138.190/tbs/doc.nsf>

22 Convention on the Rights of the Child (n. 18 above).

23 Ibid.

24 As summarised in guidelines issued by the UN High Commissioner for Refugees (UNHCR), 'Refugee Children: Guidelines on Protection and Care' (Geneva, 1994), <http://www.unhcr.org/cgi-bin/texis/vtx/protect/openssl.pdf?tbl=PROTECTION&id=3b84c6c67>

*be affected by their decisions and actions — by, for example, a proposed or existing law or policy or administrative action or court decision, including those which are not directly concerned with children, but indirectly affect children.*²⁵

For advocates of children’s housing rights, this is a powerful requirement because it ensures that child welfare, rather than being relegated to the margins of housing policy, plays a central role.

The Convention on the Rights of the Child also highlights the theme of child participation in decision-making, a radical and critical departure from the passive role usually ascribed to children in society. Article 12 of the Convention provides that:

*States Parties shall assure to the child who is capable of forming his or her views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*²⁶

Nearly every article of the Convention concerns some aspect of children’s participation in society. Extending this provision to the area of housing rights, children should be empowered to actively and meaningfully participate in the formulation of housing policy and programmes that affect them. This will help to ensure that their housing rights are protected on their own terms, and that housing meets their special needs.

2.2 ADDITIONAL INTERNATIONAL INSTRUMENTS

FINAL REPORT OF UN SPECIAL RAPPORTEUR ON THE RIGHT TO ADEQUATE HOUSING (1995)

“The physical and social development of children is closely linked to the environment in which they grow up and the living conditions they have to confront. The child’s self-confidence and identity depends significantly on having access to a place to live in security and dignity. The absence of these conditions leads to the child being deprived of many basic rights such as the right to health, education, protection from economic exploitation and abuse and the right to a legal identity and citizenship. In a world where poverty and marginalisation of vulnerable groups are on the rise, the Special Rapporteur would like to stress the particular importance of the right to adequate housing for children. Particularly important is the need to focus on the structural causes in societies that are leading to the disintegration of family structures and the growing phenomenon of street children.”

Excerpted from: Final Report of Mr Rajindar Sachar, former Special Rapporteur of the UN Sub-Commission on the Right to Adequate Housing (1995), UN Doc. E/CN.4/Sub.2/1995/12 (1995), para. 50.

25 UN Committee on the Rights of the Child, General Comment No. 5 on ‘General measures of implementation for the Convention on the Rights of the Child’, UN Doc. CRC/GC/2003/5, 27 Nov. 2003, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2003.5.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2003.5.En?OpenDocument)

26 Ibid.

In addition to the Convention on the Rights of the Child, there are several other instruments of international human rights law that can be employed to protect and defend children's housing rights.

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

Everyone has the right to a standard of living adequate for the health and well-being of himself [herself] and of his [her] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his [her] control.²⁷

Perhaps the leading statement of international law relating to housing rights is the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), which states in Article 11(1):

*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself [herself] and his [her] family, including adequate food, clothing and **housing**, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.²⁸ [Emphasis added]*

The ICESCR recognises housing rights as belonging to adults and children alike. Housing rights are also enshrined in, and protected by, other international human rights instruments, including the International Convention on the Elimination of all forms of Racial Discrimination (ICERD, 1965),²⁹ the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1979),³⁰ the Convention Relating to the Status of Refugees (1959),³¹ and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).³² Each of these treaties can be invoked to provide protec-

27 Universal Declaration of Human Rights, GA res. 217A (III), UN Doc. A/810 (1948), <http://www.unhchr.ch/udhr/lang/eng.htm>

28 International Covenant on Economic, Social and Cultural Rights, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16), UN Doc. A/6316 (1966), 993 UNTS 3, entered into force 3 Jan. 1976, http://www.unhchr.ch/html/menu3/b/a_cesocr.htm

29 International Convention on the Elimination of all forms of Racial Discrimination (ICERD), GA res. 2106 (XX), 660 UNTS 195, entered into force 4 Jan. 1969, http://www.unhchr.ch/html/menu3/b/d_icerd.htm. ICERD Art. 5 states that: "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (e) Economic, social and cultural rights, in particular... (iii) the right to housing".

30 Convention on the Elimination of All Forms of Discrimination against Women, GA res. 34/180, 34 UN GAOR Supp. (No. 46), p. 193, UN Doc. A/34/46, entered into force 3 Sept. 1981, <http://193.194.138.190/html/menu3/b/eicedaw.htm>. Art. 14(2)(h) stipulates that: "State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications".

31 Convention relating to the Status of Refugees, 189 UNTS 150, entered into force 22 Apr. 1954, http://193.194.138.190/html/menu3/b/o_c_ref.htm. Art. 21 specifically addresses the issue of housing, stating that: "As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances".

32 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, GA res. 45/158, annex, 45 UN GAOR Supp. (No. 49A), UN Doc. A/45/49 (1990), entered into force 1 July 2003, <http://www.ohchr.org/english/law/cmw.htm>

tion for the housing rights of specific groups of children; for example, those belonging to racial or ethnic minorities, girl children, and refugee children.

The right to adequate housing has been best defined by the UN Committee on Economic, Social and Cultural Rights (the expert body that monitors implementation of, and compliance with, the ICESCR) in its General Comment No. 4 on the right to adequate housing. Perhaps the most comprehensive international legal statement on this right to date, it is meant to interpret and define the legal principles articulated in Article 11(1) of the ICESCR. Children’s housing rights advocates should be aware of this General Comment, as it clearly explains the substantive components of the right to adequate housing that apply to everyone, everywhere — including children.

In General Comment No. 4, the Committee expounds the view that:

... the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.³³

This is especially relevant to children, who are uniquely dependent on adequate housing conditions for their healthy development and survival. According to the Committee:

[T]he right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant [on Economic, Social and Cultural Rights] is premised. Thus “the inherent dignity of the human person” from which the rights in the Covenant are said to derive requires that the term “housing” be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources.³⁴

The Committee goes on to note that:

... the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute “adequate housing” for the purposes of the [International] Covenant [on Economic, Social and Cultural Rights].³⁵

In this regard, the Committee identified seven key elements that comprise the right to adequate housing:

*(a) **Legal security of tenure.** ... [A]ll persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. ...*

33 UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 4: The Right to Adequate Housing (Art.11 (1) of the Covenant)’, 13 December 1991, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563edo053547e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563edo053547e?Opendocument)

34 Ibid.

35 Ibid.

- (b) **Availability of services, materials, facilities and infrastructure.** *An adequate house must contain certain facilities essential for health, security, comfort and nutrition ... [and provide] sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.*
- (c) **Affordability.** *Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. ...*
- (d) **Habitability.** *Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. ...*
- (e) **Accessibility.** *... Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as ... **children** ... should be ensured some degree of priority consideration in the housing sphere. ... [Emphasis added.]*
- (f) **Location.** *Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. ... Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.*
- (g) **Cultural adequacy.** *The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. ...*³⁶

Each of these seven elements of the right to adequate housing is essential to children's full enjoyment of their housing rights. **Legal security of tenure** protects children against the trauma of forced eviction and displacement.³⁷ **Availability of services, materials, facilities and infrastructure** ensures that children have access to safe drinking water and sanitation facilities, vastly increasing their chances of surviving infancy and early childhood. **Affordability** ensures that children have access to an adequate home regardless of how poor their families may be, and that their rights to health, education and food are not jeopardised because family resources are drained by exorbitant housing costs. **Habitability** protects children's physical and psychological health from environmental threats, including those associated with overcrowded and/or poorly constructed housing. **Accessibility** ensures that vulnerable children, including the displaced, are adequately housed, regardless of their and their family's circumstances. An adequate **location** ensures that children are close enough to social facilities that enable them to realise their rights to health and education. It also protects children from pollution that may put their development and survival at risk. Finally, upholding **cultural adequacy** allows children to express their cultural identity through their housing.

In order for children's housing rights to be upheld, each of these seven elements of the right to adequate housing must be fully ensured.

The International Covenant on Civil and Political Rights (ICCPR) also provides important protections for children's housing rights, including provisions related to the rights to non-discrimination and to equality (Arti-

³⁶ Ibid.

³⁷ As the UN Committee on Economic, Social and Cultural Rights (CESCR) has also recognised "... children, youth ... and other vulnerable individuals and groups all suffer disproportionately from the practice of forced evictions". UN CESCR, 'General Comment No. 7 (1997): The right to adequate housing (art. 11.1 of the Covenant): forced evictions', UN Doc.E/C.12/1997/4, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument), para. 10.

cles 2 & 3), and the right to be protected against arbitrary or unlawful interference with one's privacy, family and home (Article 17).³⁸

In particular, Article 17 of the ICCPR has special relevance to forced evictions. The UN Human Rights Committee (the expert body that monitors implementation of, and compliance with, the ICCPR), in its General Comment No. 16 on 'the right to respect of privacy, family, home and correspondence, and protection of honour and reputation', states that:

*... the right of every person to be protected against arbitrary or unlawful interference with his [or her] privacy, family, home or correspondence as well as against unlawful attacks on his [or her] honour and reputation ... is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons. The obligations imposed by this article require the State to adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right.*³⁹

The ICCPR can therefore be used to protect children against forced eviction, which is defined as:

*[T]he permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.*⁴⁰

As indicated in Section 4, below, forced evictions have grave ramifications for the health and well-being of children.

2.3 REGIONAL HUMAN RIGHTS LEGAL STANDARDS

Children's housing rights are also protected by various regional human rights systems, including those of Africa, Europe and the Americas. Each of these regional systems incorporates regional human rights treaties along with commissions and/or courts that oversee State Party compliance with the relevant treaties. Furthermore, each of these systems embodies multiple provisions on, or related to, the right to adequate housing, as well as rich jurisprudence that is relevant to that right. The following subsections summarise only

38 International Covenant on Civil and Political Rights, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16), p. 52, UN Doc. A/6316 (1966), 999 UNTS 171, entered into force 23 Mar. 1976, <http://www.ohchr.org/english/law/ccpr.htm>

39 UN Human Rights Committee (HRC), General Comment No. 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Article 17 [of the ICCPR]), 8 Apr. 1988, [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/23378a8724595410c12563ed004aeecd?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/23378a8724595410c12563ed004aeecd?Opendocument). This provision of the ICCPR has been interpreted to protect persons against forced evictions. For example, in interpreting Art. 17 of the ICCPR, the HRC recently stated in its Concluding Observations on Kenya that: "[The] Committee remains concerned about reports of the forcible eviction of thousands of inhabitants from so-called informal settlements, both in Nairobi and other parts of the country, without prior consultation with the populations concerned and/or without adequate prior notification. This practice arbitrarily interferes with the Covenant rights of the victims of such evictions, *especially their rights under article 17 of the Covenant.*" [Emphasis added.]: Concluding observations of the Human Rights Committee: Kenya, UN Doc. CCPR/CO/83/KEN, 29 Apr. 2005, [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/62fd6231f4e490fbc1256ffe004c06e2?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/62fd6231f4e490fbc1256ffe004c06e2?Opendocument)

40 UN CESCR, General Comment No. 7 (see n. 37 above), para. 3. This General Comment addresses in detail the fundamental human right not to be forcibly evicted from one's home.

those provisions that most closely relate to children’s housing rights, thereby providing a partial overview of all the existing protections.

2.3.1 The African human rights system

The African human rights system is the only regional human rights system that has adopted its own treaty on the rights of the child. The African Charter on the Rights and Welfare of the Child (ACRWC) echoes many of the provisions found in the United Nations Convention on the Rights of the Child (CRC), including the standard that “[i]n all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration” (Article 4(1)).⁴¹

With respect to housing rights, Article 20 of the ACRWC stipulates that:

States Parties ... shall in accordance with their means and national conditions ... [take] all appropriate measures;

*(a) to assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing ...*⁴² [Emphasis added.]

The ACRWC contains several other provisions relevant to children’s housing rights, including the rights of children to: non-discrimination (Article 3); survival and development (Article 5); protection of privacy (Article 10); education (Article 11); special measures in cases of mental or physical handicap (Article 12); health and health services (Article 13); and protection against child abuse and torture (Article 16). To date, the ACRWC has been ratified by 37 African countries.

The African [Banjul] Charter on Human and Peoples’ Rights (commonly referred to simply as ‘the African Charter’) also contains various provisions relevant to children’s housing rights. These include specific provisions on the rights of children to: non-discrimination (Article 2); life (Article 4); the best attainable state of physical and mental health (Article 16); education (Article 17); economic, social and cultural development (Article 22); a generally satisfactory environment favourable to their development (Article 24); etc.⁴³ Furthermore, the African Charter requires that States ensure protection of the rights of women and children as stipulated in international declarations and conventions (Article 18).⁴⁴ Presumably, these include the United Nations Convention on the Rights of the Child.

41 African Charter on the Rights and Welfare of the Child (ACRWC), OAU Doc. CAB/LEG/24.9/49 (1990), entered into force 29 Nov. 1999, http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf. In relation to housing rights, this Charter arguably places heavier obligations on States Parties than the CRC. The ACRWC, in Article 1(1), provides that States Parties “shall undertake to [take] the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.” However, the ACRWC does not differentiate between economic, social and cultural rights on the one hand and civil and political rights on the other, in terms of the steps that States must take to ensure these rights. The CRC does incorporate language relating to progressive realisation of economic and social rights.

42 Ibid.

43 African [Banjul] Charter on Human and Peoples’ Rights, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 Oct. 1986, http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Banjul%20Charter.pdf

44 Ibid.

It should be noted that the African Charter on Human and Peoples' Rights contains no explicit provision recognising the right to adequate housing. However, in a landmark case against Nigeria before the African Commission on Human and Peoples' Rights, the Commission found that while the African Charter does not explicitly mention the right to adequate housing, this right can be effectively inferred from other rights protected in the Charter.⁴⁵ The Commission found as follows:

Although the right to housing or shelter is not explicitly provided for under the African Charter, the corollary of the combination of the provisions protecting the right to enjoy the best attainable state of mental and physical health, cited under Article 16 above, the right to property, and the protection accorded to the family forbids the wanton destruction of shelter because when housing is destroyed, property, health, and family life are adversely affected. It is thus noted that the combined effect of Articles 14, 16 and 18(1) reads into the Charter a right to shelter or housing which the Nigerian Government has apparently violated.⁴⁶ [Emphasis added.]

This finding is critically important to the defence of children's housing rights in Africa because it recognises that housing rights are effectively protected under the African Charter. For children in Africa, it also affirms their right not to be forcibly evicted from their homes — neither by State nor by non-State actors.

Indisputably, the situation of children's housing rights in Africa is dire. The United Nations estimates that around 40 percent of African slum-dwellers live in situations of extreme poverty that are literally "life-threatening".⁴⁷ This grim reality results in high rates of child mortality, especially for those less than five years of age. Homelessness, forced eviction and mass displacement of children are also widespread. Against this background of serious and pervasive human rights violations, legal provisions within the African human rights system provide additional protections to African children whose housing rights are violated. As this subsection has illustrated, the African Charter on the Rights and Welfare of the Child requires States Parties to take positive measures aimed at ensuring children's housing rights, and the African Charter on Human and People's Rights can also be invoked to protect children against housing rights violations.

2.3.2 The European human rights system

A shortcoming of the European human rights system is that it has no treaty that relates specifically to the human rights of children (though all European Union countries are States Parties to the United Nations Convention on the Rights of the Child). However, of all the world's regional human rights systems, the European system has developed the strongest jurisprudence in terms of recognising and upholding the right to adequate housing, especially the right to be protected from forced eviction. Unfortunately, Europe as a

45 African Commission on Human & Peoples' Rights, Communication 155/96 re *The Social and Economic Rights Action Center [SERAC] and the Center for Economic and Social Rights [CESR] v. Nigeria*; reproduced in ACHPR/COMM/A044/1, 27 May 2002, <http://66.249.93.104/search?q=cache:BOl5ukwoeMMJ:www.elaw.org/assets/pdf/ng.afr.commission.hrights.pdf+ACHPR/COMM/A044/1&hl=en&ct=clnk&cd=2>

46 Ibid, para. 60. The Commission found further (in para. 61) that: "At a very minimum, the right to shelter obliges the Nigerian government not to destroy the housing of its citizens and not to obstruct efforts by individuals or communities to rebuild lost homes. The State's obligation to respect housing rights requires it, and thereby all of its organs and agents, to abstain from carrying out, sponsoring or tolerating any practice, policy or legal measure violating the integrity of the individual or infringing upon his or her freedom to use those material or other resources available to them in a way they find most appropriate to satisfy individual, family, household or community housing needs".

47 UN Global Urban Observatory (GUO), *Slums of the World: The face of urban poverty in the new millennium?* (New York: UN-HABITAT, 2003), <http://www.unhabitat.org/publication/slumreport.pdf>

whole, despite strong legal protections at the national and regional levels, has by no means overcome the problems of forced eviction and inadequately housed children. Every year, thousands of children living in all parts of Europe fall victim to housing rights violations associated with racial and ethnic segregation, ‘environmental racism’,⁴⁸ forced eviction and housing poverty.

The preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR), defines the aim of the Council of Europe as “the achievement of greater unity between its members” and states that “one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms”.⁴⁹ The European Convention thereby sets forth a broad range of civil and political rights, though it does not expressly mention a right to adequate housing. However, several provisions within the European Convention are relevant to housing rights issues and may therefore be invoked to protect various aspects of children’s housing rights.⁵⁰ For example, Article 8, which sets forth the right to respect for private and family life, and for the home, is often used to highlight the obligations of States to protect all individuals within their jurisdiction from forced eviction. The European Court of Human Rights (which was established under the European Convention) has repeatedly interpreted Article 8 as effectively protecting persons against forced or arbitrary eviction, which, in the terms of the European Convention, can be seen as interference with the individual’s right to respect for private and family life, and for the home.⁵¹ Under the European Convention, this protection would also apply to children.

A series of protocols amend and augment the original European Convention of 1950, many of them expanding upon the substantive rights articulated within it. Most relevant from the perspective of children’s housing rights are the first protocol, which provides for protection of private property, and the twelfth protocol, which prohibits discrimination. The [First] Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms⁵² has often been successfully invoked to protect persons from forced eviction and similar violations of the right to adequate housing. Article 1 of the [First] Protocol affords additional protection to that provided by Article 8 of the European Convention, noting that:

*Every natural or legal person is entitled to the peaceful enjoyment of his [or her] possessions. No one shall be deprived of his [or her] possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*⁵³

48 ‘Environmental racism’ is a term used for racial discrimination in environmental policy-making, enforcement of regulations and laws, and targeting of certain ethnic communities for waste disposal and location of polluting industries.

49 [European] Convention for the Protection of Human Rights and Fundamental Freedoms, (ETS No. 5), 213 UNTS 222, *entered into force* 3 Sept. 1953, as amended by Protocols Nos. 3, 5 and 8 which *entered into force* on 21 Sept. 1970, 20 Dec. 1971 and 1 Jan. 1990 respectively, <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>

50 These include: Art. 3, the right to be free from torture or inhuman or degrading treatment (including that arising from a failure to provide adequate housing); Art. 6, the right to a fair hearing in civil matters (including evictions and applications for housing); Art. 8, the right to respect for family and home life (which means that any evictions sanctioned by the State must be proportionate to the social objective required); Art. 13, the right to an effective domestic remedy for eviction; and Art. 14, the right to be free from discrimination in relation to Convention rights (including in the area of housing). See: P. Kenna ‘Using the ECHR to Advance Housing Rights’, *COHRE Housing and ESC Rights Law Quarterly*, Vol. 2, No. 1, pp. 5-8, <http://www.cohre.org/downloads/Vol2-No1-Quarterly.pdf>

51 See, for example: European Court of Human Rights, 28 Nov. 1997, judgment in the case of *Mente and Others v. Turkey* (Application no. 23186/94), <http://www.worldlii.org/int/cases/IIHRL/1997/148.html>

52 The [First] Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11, 1952. <http://conventions.coe.int/Treaty/en/Treaties/Html/009.htm>

53 *Ibid.*

It is the revised European Social Charter of 1996 that explicitly recognises the right to housing, in Article 31:

With a view to ensuring the effective exercise of the right to housing, the [States] Parties undertake to take measures designed:

- 1. to promote access to housing of an adequate standard;*
- 2. to prevent and reduce homelessness with a view to its gradual elimination;*
- 3. to make the price of housing accessible to those without adequate resources.⁵⁴*

Full State compliance with each of these three obligations has the potential to drastically improve the housing rights situation for vulnerable children in Europe.

The revised European Social Charter also requires States to take special measures aimed at protecting children's rights:

The [States] Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

...

- 7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.*

...

- 17. Children and young persons have the right to appropriate social, legal and economic protection.⁵⁵*

For children, these specific provisions are closely related to the realisation of their right to adequate housing. When a child's housing rights are violated, he or she is far more likely to be exposed to "physical and moral hazards" including illness and abuse. Furthermore, the child's right to adequate housing, which is implicit in the right of every child to an adequate standard of living, should be seen as lying within the scope of "appropriate social, legal and economic protection".

2.3.3 The inter-American human rights system

In North, Central and South America, enormous numbers of children suffer as a result of inadequate housing conditions, forced evictions, and child homelessness. In Brazil, Guatemala and Haiti, in particular, street children and homeless children face abuse and even torture at the hands of authorities and vigilantes. Like its European counterpart, the inter-American human rights system has no separate treaty on the rights of children, though the American Convention on Human Rights does relate specifically to the rights of the child, in Article 19:

Every minor child has the right to the measures of protection required by his [or her] condition as a minor on the part of his [or her] family, society, and the state.⁵⁶

⁵⁴ European Social Charter (revised), (ETS No. 163), entered into force 7 Jan. 1999, <http://conventions.coe.int/treaty/en/Treaties/Html/163.htm>

⁵⁵ Ibid.

⁵⁶ American Convention on Human Rights ('Pact of San Jose, Costa Rica'), OAS Treaty Series No. 36, 1144 UNTS 123 entered into force 18 July 1978, <http://www.oas.org/juridico/english/Treaties/b-32.htm>

As is the case within the European system, housing rights are protected in a variety of ways within the inter-American human rights system. The American Convention on Human Rights defines the rights that States Parties have agreed to respect and ensure. These include various rights relevant to children's housing rights, including, *inter alia*, the right to life (Article 4), the right to humane treatment (Article 5), the right to personal liberty (Article 7), the right to compensation (Article 10), the right to privacy (Article 11) and the right to property (Article 21).⁵⁷ Each of these provisions can be utilised in different circumstances to effectively protect children's housing rights, including protection against homelessness and forced eviction.

Under Article 26 of the American Convention, States Parties undertake to:

*... adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.*⁵⁸

Although Article 26 does not mention housing, the Charter of the Organization of American States, to which it refers, does so explicitly in its Article 34:

The Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals:

...

*k) Adequate housing for all sectors of the population.*⁵⁹

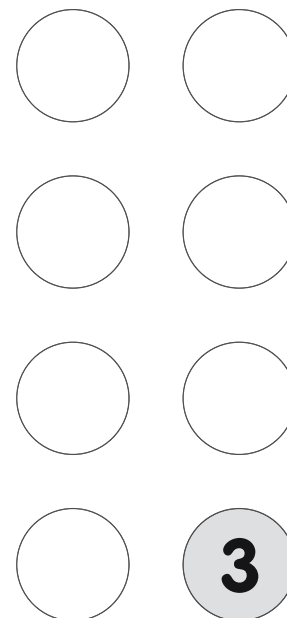
When read together, Article 26 of the American Convention and Article 34 of the Charter of the Organization of American States clearly infer a right to adequate housing within the inter-American human rights system.

All of these provisions provide important tools for the effective protection of children's housing rights in the Americas.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ The Charter of the Organization of American States was signed in Bogotá in 1948 and amended by the Protocol of Buenos Aires in 1967, by the Protocol of Cartagena de Indias in 1985, by the Protocol of Washington in 1992, and by the Protocol of Managua in 1993; <http://www.oas.org/juridico/English/charter.html>



Schoolchildren in the Copperbelt region of Zambia. The population of Zambia has the world's lowest life-expectancy — just 33 years. There are over one million orphans in the country. Both of these facts are due in large part to the HIV/AIDS pandemic..

Upholding children's housing rights: State obligations

“In its essence, housing as a living impulse creates roots, entailing security. The house is to be seen as a home, the one stable point in the child's life where she/he can return to. It is a place where the child can eat, laugh, play — where she/he will find love and peace.”

— Miloon Kothari, United Nations Special Rapporteur on the Right to Adequate Housing⁶⁰

As explained in Section 2, various international human rights standards can be used to advocate on behalf of, and to protect, children's housing rights. However, these international standards are far more binding than mere political statements: they imply concrete legal obligations. This section examines what some of these international obligations actually entail.

⁶⁰ See: Statement of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Special Session of the General Assembly on Children, New York, 8-10 May 2002.

When it comes to upholding children’s housing rights, States have a range of obligations under international human rights law.⁶¹ In general, these are the duties to respect, protect and fulfil children’s housing rights, and can be thought of as three different ‘levels’ of obligation. These duties, each of which is described in detail below, exist under all of the international human rights instruments discussed in Section 2, including the United Nations Convention on the Rights of the Child (‘the Convention’), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR).

As explained in Section 2, the Convention underscores the basic principle that States must act in ways that uphold children’s rights to non-discrimination, to survival and development, and to participate meaningfully in all matters that affect them. As also explained in Section 2, States Parties to the Convention are duty-bound to act in a manner consistent with the ‘best interest of the child’.

The United Nations Committee on the Rights of the Child, in its General Comment No. 5 on ‘General measures of implementation for the Convention on the Rights of the Child’, notes that the Convention accepts that, in some States, lack of financial and other resources can hamper the full implementation of economic, social and cultural rights. This acknowledgement introduces the concept of ‘progressive realisation’ of such rights.⁶² Nonetheless, the Committee has held that States must be able to demonstrate that they have implemented economic, social and cultural rights to the maximum extent of their available resources and that, where necessary, they have sought international cooperation to assist with the fulfilment of such rights.⁶³

As the Committee on the Rights of the Child observes, this language is similar to the wording used in the ICESCR. As the Committee on Economic, Social and Cultural Rights has articulated, the language on progressive realisation of economic, social and cultural rights is not meant to effectively drain these rights of any meaningful content. Rather, it is to assist those States that have only limited resources to prioritise their use so as to move as expeditiously as possible towards the full realisation of all human rights.⁶⁴

With this understanding of ‘progressive realisation’ in mind, the Committee on the Rights of the Child has also held that:

*Whatever their economic circumstances, States are required to undertake all possible measures towards the realization of the rights of the child, paying special attention to the most disadvantaged groups.*⁶⁵

61 Note that this section refers primarily to State Party obligations under the UN Convention on the Rights of the Child (see n. 18 above) and the International Covenant on Economic, Social and Cultural Rights (see n. 28 above). Higher standards may also apply, depending on whether the State in question is also party to additional human rights treaties within the relevant regional system.

62 UN Committee on the Rights of the Child, General Comment No. 5 (see n. 25 above).

63 Ibid.

64 The UN Committee on Economic, Social and Cultural Rights has noted that “the phrase [‘with a view to achieving progressively the full realization of the rights recognized’, as used in Art. 2 of the Covenant on Economic, Social and Cultural Rights] must be read in the light of the overall objective, indeed the *raison d’être*, of the Covenant, which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant [on Economic, Social and Cultural Rights] and in the context of the full use of the maximum available resources”. See: UN Committee on Economic, Social and Cultural Rights, General Comment No. 3 on ‘the nature of States parties obligations’, UN Doc. E/1991/23, 14 Dec. 1990.

65 UN Committee on the Rights of the Child, General Comment No. 5 (see n. 25 above), para. 8.

Similarly:

*..., in the context of the Convention, States must see their role as fulfilling clear legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favours on children.*⁶⁶

Thus, the duties of States to respect, protect and fulfil children’s housing rights remain at all times legal obligations that are to be adhered to and complied with in good faith.

As the Committee on the Rights of the Child has also recognised:

*When States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to [its] global implementation.*⁶⁷

It bears repeating here that, at all times, States are obligated to ensure the right of all children to non-discrimination. This obligation is very clearly established under major instruments of international human rights law, including the Convention,⁶⁸ the ICESCR⁶⁹ and the ICCPR.⁷⁰ The right of all children to non-discrimination is an overarching right and should be regarded as being essential to each of the ‘levels’ of obligation discussed in Subsections 3.1, 3.2 and 3.3 below. This right also intersects meaningfully with each of the seven substantive elements of the right to adequate housing discussed in Subsection 2.2 above (that is: security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy). As such, in certain circumstances – for example, when children belonging to a minority ethnic group suffer disproportionately from inadequate housing conditions, or when daughters are not allowed to inherit the family home on an equal basis with their brothers – violations of the right to non-discrimination must also be seen as concurrent housing rights violations.

⁶⁶ Ibid., para. 11.

⁶⁷ Ibid., para. 7.

⁶⁸ See n. 18 above.

⁶⁹ See n. 28 above.

⁷⁰ See n. 38 above.

3.1 THE DUTY TO RESPECT

The duty to respect the right of children to adequate housing entails that States should refrain from any action that would prevent children and their families from realising this right whenever they themselves are able to do so. This means that States must not act in ways that would worsen, or lead to a further deterioration of, the housing rights situation for children. A key implication of this duty is that States are prohibited from forcibly evicting children and their families and from arbitrarily and unlawfully destroying their homes. Importantly, under international human rights law the duty to respect is an immediate obligation of States and is not subject to progressive realisation over time.

It should be noted that across the world forced evictions are a leading violation of the right to adequate housing: each year, millions of people are forcibly evicted from their homes in flagrant violation of international human rights standards, including the duty of States to respect the right to adequate housing. Many, if not most, of the persons who are forced out of their homes in this way are children, and it is they who generally suffer the gravest psychological damage, violence and disruption to their lives as a result (see Subsection 4.5, below, for detailed information on the consequences of forced eviction for children).

The duty to respect children's housing rights applies equally in times of armed conflict and in times of peace. Forced evictions occur both in war zones and in countries where there is no ongoing civil or international armed conflict. War is by no means a prerequisite for being arbitrarily deprived of one's home. Nonetheless, children in war zones – whether they be in Colombia, Palestine, the Sudan or elsewhere – have special protections under international humanitarian law, which governs the laws of war.

The first Geneva Convention relative to the Protection of Civilian Persons in Time of War states that:

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

...

*Reprisals against protected persons and their property are prohibited.*⁷¹

Clearly, this instrument of international law prohibits collective punishment such as house demolitions, which are common in Arab areas of Israel/Palestine, for example. Unfortunately, it is innocent children who too often suffer the devastating consequences of these violations of humanitarian law.⁷²

71 Geneva Convention relative to the Protection of Civilian Persons in Time of War, 75 UNTS 287, entered into force 21 Oct. 1950, <http://www.unhcr.ch/html/menu3/b/92.htm>

72 Art. 53 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War further stipulates that: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations." Peter Hansen, Commissioner-General of UNRWA, has noted that "Any humanitarian looking at the sheer number of innocent civilians who have lost their homes can only condemn Israel's house demolition policy as a hugely disproportionate military response by an occupation army It is a policy that creates only hardship and bitterness, and in the end can only undermine hope for future reconciliation and peace". UN News Centre, 'UN agency condemns Israeli demolition of Palestinian homes, calls for new funds', 22 Jan. 2004. See also: Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967, UN Doc. E/CN.4/2005/29, 2005, <http://daccessdds.un.org/doc/UNDOC/GEN/Go4/166/92/PDF/Go416692.pdf?OpenElement>

THE DUTY TO RESPECT CHILDREN'S HOUSING RIGHTS IN ISRAEL/PALESTINE

According to Amnesty International, in the period from September 2000 to early 2004, the Israeli army and security forces destroyed more than 3 000 homes, vast areas of agricultural land and hundreds of other properties in Israel and the Occupied Territories. Such house demolitions are usually carried out without warning, often at night or early in the morning, and the occupants are forcibly evicted with no time to salvage their belongings. The majority of those who have been left homeless by house demolitions have been Palestinian children.

According to the United Nations, in 2004 the rate of house demolitions in the Gaza Strip was unprecedented. During that year, an average of about 45 people were made homeless each day, most of them children. According to Peter Hansen, Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the psychological effects of the crisis were an insidious and serious health concern for children. A joint study by Save the Children US and the Secretariat of the National Plan of Action for Palestinian Children found that 90 percent of parents reported that their children exhibited traumatic stress-related symptoms as a result of the Israeli incursions and the practice of house demolitions.

Since the Israeli pull-out from the Gaza Strip in 2005, house demolitions and forced evictions of Palestinians continue in other areas of the Israel and the Occupied Territories, including the West Bank and East Jerusalem.

Sources: Amnesty International, 'Israel and the Occupied Territories: Under the Rubble', 18 May 2004; statement by Peter Hansen, Commissioner-General of UNRWA, to the Special Political and Decolonization Committee, 1 November 2004.

3.2 THE DUTY TO PROTECT

The duty to protect the right of children to adequate housing requires that States effectively prevent violations of that right by non-State actors, such as landlords, corporations or other private-sector individuals or bodies. Like the duty to respect, the duty to protect is an immediate obligation and not subject to progressive realisation over time.

All too often, violations of children's housing rights are allowed to take place with impunity, as States neglect their international human rights obligations and turn a blind eye to the suffering and distress of children. In all parts of the world, non-State actors are responsible for forcibly evicting families, including children. Non-State actors also make access to housing and basic services unaffordable and/or contribute to the inhabitability of housing; for example, by unjustifiably increasing rents or water and sanitation charges, and/or by neglecting to maintain housing and allowing it to fall into disrepair.

In order to protect children against such violations of their housing rights, COHRE recommends that States should take immediate measures aimed at conferring legal security of tenure upon all persons and households who currently lack such security. This step alone would help to protect children and their families from forced eviction at the hands of private-sector actors. In addition, States should ensure that children's housing rights are well protected by legislation and other measures aimed at effectively monitoring and controlling the private-sector. Furthermore, States should not evade their international legal obligations and leave children's housing rights unaddressed by delegating powers to private-sector agencies and actors.

In order to fully comply with their duty to protect, States should act at all times to defend children and their families against housing discrimination, harassment, withdrawal of services and other threats from private-sector actors. Furthermore, States should reform all laws and policies that leave children and their families vulnerable to such abuse. For example, governments could introduce rent- and tariff-control policies and other standards aimed at ensuring the affordability of housing and essential services such as water and sanitation.

3.3 THE DUTY TO FULFIL

The duty to fulfil the right of children to adequate housing entails certain positive obligations, and may require public expenditure in respect of appropriate budgetary commitments, State regulation, provision of public services, and provision of housing subsidies or social housing, including housing programmes that are sensitive to children's special needs. International law requires that States should immediately take steps in this regard, using the maximum available resources to progressively realise children housing rights – without discrimination on any grounds.

Even when States have only limited resources, they are obligated to take immediate steps to guarantee the right of children to adequate housing. Many such steps, which are by definition initial in nature, do not necessitate the allocation of funding per se, but require at least the creation of plans and strategies aimed at fulfilling this right. For example, with respect to the right to adequate housing, the Committee on Economic, Social and Cultural Rights has stressed that States should develop identifiable strategies aimed at securing the right of all persons to live in peace and dignity. Similarly, the Committee on the Rights of the Child has asserted that States are obligated to conduct a comprehensive review of all domestic legislation and related administrative policies to ensure full compliance with the Convention on the Rights of the Child.⁷³ This Committee has also stated that States Parties to the Convention need to ensure, by all appropriate means, that its provisions are given legal effect within their domestic legal systems.⁷⁴ This would imply that children's housing rights can be effectively invoked in domestic courts of law.

73 UN Committee on the Rights of the Child, General Comment No. 5 (see n. 25 above). The general measures of implementation identified by the Committee are intended to promote the full enjoyment of all Convention rights by all children, through legislation, the establishment of coordinating and monitoring bodies – governmental and independent –, comprehensive data-collection, awareness-raising and training, as well as the development and implementation of appropriate policies, services and programmes. According to the Committee: “One of the satisfying results of the adoption and almost universal ratification of the Convention has been the development at the national level of a wide variety of new child-focused and child-sensitive bodies, structures and activities – children's rights units at the heart of government, ministers for children, inter-ministerial committees on children, parliamentary committees, child impact analysis, children's budgets and ‘state of children's rights’ reports, NGO coalitions on children's rights, children's ombudspersons and children's rights commissioners and so on” (para. 9).

74 Ibid.

THE DUTY TO FULFIL CHILDREN'S HOUSING RIGHTS IN SOUTH AFRICA

In the past few years, the Constitutional Court of South Africa has issued two important judgments that relate to the economic, social and cultural rights of children: the first addressing the issue of adequate housing, the second on access to health-care services. Although both of these judgments have their limitations, children's rights advocates around the world have welcomed them as important developments in establishing international jurisprudence on the key question of State obligations vis-à-vis children's economic, social and cultural rights.

In the landmark *Grootboom* case, the Constitutional Court considered a petition lodged on behalf of a poor community of some 390 adults and 510 children. The community had been living in extremely poor conditions in Wallacedene squatter camp, Kraaifontein, Western Cape. All the Wallacedene households had been living in shacks without water and sanitation services, and only five percent of the shacks had electricity. Out of desperation, the community decided to move to vacant land. However, they were soon evicted from that land. The community then camped on the sports field adjacent to the community centre at Wallacedene. Living in misery, the community launched an urgent application for the provision of adequate and sufficient basic temporary shelter and/or housing under Section 26 of the South African Constitution, which provides that everyone has the right to have access to adequate housing. They argued that under Subsection 28(1)(c) of the Constitution, which provides that every child has the right to, *inter alia*, shelter, their children had an unqualified right to shelter. They further argued that Subsection 28(1)(c) imposed a duty on the State to provide shelter not only for the children but also for their parents, on the basis that it is in the children's best interests to remain in a family unit.

Consistent with international human rights law, the Court found – reading Subsections 26(1) and (2) together – that there is “a negative obligation placed upon the [S]tate and all other entities and persons to desist from preventing or impairing the right of access to adequate housing” (para. 34). The Court thereby recognised the basic negative obligations of the State vis-à-vis economic, social and cultural rights. With respect to positive obligations, however, the results were more nuanced. The Court found that, while “neither section 26 nor section 28 entitles the respondents to claim shelter or housing immediately upon demand ... section 26 does oblige the state to devise and implement a coherent, co-ordinated programme designed to meet its section 26 obligations” (para. 95). In other words, the Court found that the State was required to take steps towards the progressive realisation of the right to adequate housing. This included the obligation to devise, fund, implement and supervise measures, within its available resources, to provide relief to those in desperate need.

In a later appeal case, *Minister of Health v. Treatment Action Campaign*, at issue was the constitutional right of everyone to have access to public health care services and, in particular, the right of children to be afforded special protection. This case concerned “children born in public hospitals and clinics to mothers who are for the most part indigent and unable to gain access to private medical treatment which is beyond their means. They and their children are in the main dependent upon the [S]tate to make health care services available to them” (para. 79).

Although this case dealt with the right to the highest attainable standard of health for children, the Constitutional Court reiterated its basic interpretation of Subsection 28(1) from the *Grootboom* case, noting that: “While the primary obligation to provide basic health care no doubt rests on those parents who can afford to pay for such services, it was made clear in *Grootboom* that ‘[t]his does not mean ... that the State incurs no obligation in relation to children who are being cared for by their parents or families’ ” (para. 77). The Court concluded that the State is certainly obligated to ensure that children are accorded the care contemplated by Section 28 when parental or family care is lacking.

Both of these national cases are significant because they reflect internationally recognised basic obligations to uphold the economic, social and cultural rights of children.

Sources: Constitutional Court of South Africa: Case CCT 11/00, *Government of the Republic of South Africa and Others v. Irene Grootboom and Others*, 2001 (1) SA 46 (CC), 2000 (11) BCLR 1169 (CC), judgment 4 Oct. 2000; Case CCT 8/02, *Minister of Health and Others v. Treatment Action Campaign and Others*, 2002 (5) SA 721 (CC), 2002 10 BCLR 1033, judgment 5 July 2002.

In this process of incorporating Convention provisions into domestic law, international law obligates States to prioritise those children who are the most vulnerable or marginalised, focusing on the provision to them of essential services, such as clean drinking water and basic health care. States must adopt all appropriate legislative, budgetary, administrative and other measures to ensure that children’s housing rights are fully upheld. Ultimately, such rights should be fully realised by all children.

The Committee on the Rights of the Child provides guidance to States by making recommendations for national planning to ensure that the rights of children are prioritised. As the Committee has noted:

*If Government as a whole and at all levels is to promote and respect the rights of the child, it needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention.*⁷⁵

Such a national strategy should be articulated through a process in which children themselves can meaningfully participate and engage in policy-making to address issues that affect them.

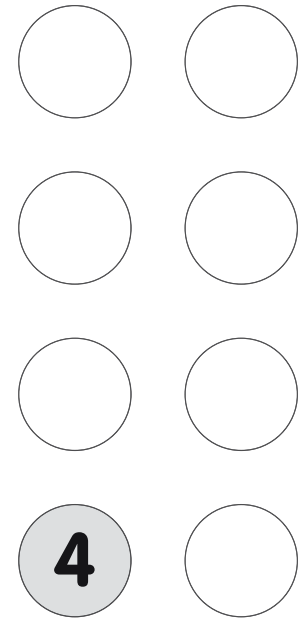
In this framework, “particular attention will need to be given to identifying and giving priority to marginalised and disadvantaged groups of children”.⁷⁶ The Committee has underscored that:

*The strategy must not be simply a list of good intentions; it must include a description of a sustainable process for realizing the rights of children throughout the State; it must go beyond statements of policy and principle, to set real and achievable targets in relation to the full range of economic, social and cultural and civil and political rights for all children.*⁷⁷

75 Ibid., para. 28.

76 Ibid., para. 30.

77 Ibid., para. 32.



Children in the Agbogbloshi slum of Accra, Ghana, a community of some 30 000 people living on the banks of the polluted Korle Lagoon.

The housing rights situation for children throughout the world

4.1 STREET CHILDREN AND HOMELESS CHILDREN

"[H]ousing is a serious problem for me now. The room I sleep in is rented out to several other people. There is no space at all. I sleep on a rag at one side of the corner, putting a torn sheet over me."

— A child working on the streets of Addis Ababa, Ethiopia ⁷⁸

Street children and homeless children suffer a range of violations of their human rights, including – most obviously – their right to adequate housing. Not only does this deprivation of basic rights almost inevitably expose these vulnerable children to exploitation and abuse, it also lies at the root of further rights vio-

⁷⁸ Quote from UNICEF (L. Mapp), 'Children Working on the Streets of Ethiopia', UNICEF report no. 2000/800 (2000), http://www.unicef.org/evaldata-base/index_14282.html

lations. In all regions of the world, such children are victims of exploitation as well as physical and sexual abuse at the hands of community members and even the authorities who should protect them, including the police.

It is estimated that there are currently 100-150 million street children worldwide, ranging in age from three to eighteen years. About 40 percent of those children are actually homeless, often living alone without anyone to look after them.⁷⁹ Such children are forced into a precarious life on the streets, which not only violates their right to adequate housing but also threatens their rights to personal security, to education, to the highest attainable standard of health, and – in far too many cases – even to life itself. The suffering of these vulnerable children can be profound. In mid-2005, when COHRE requested information on the kinds of human rights violations that street children and homeless children typically experience, Luis de la Mora, former President of the State Foundation for the Welfare of Minors, based in Pernambuco, Brazil, responded in stark terms: “the total loss of their childhood, their dreams and hopes”.⁸⁰

According to the United Nations Centre for Human Settlements (UN-HABITAT), street children constitute a category of homeless people that present issues distinct from those of the adult homeless population.⁸¹ UN-HABITAT broadly divides street children into three groups, defined in the list below. Only those in the last of these groups are actually homeless, whereas the others can best be characterised as being at risk of homelessness:

- *Children at high risk are those who live in households that do not satisfy their basic human needs. They may spend time in the streets to work or ‘hang out’ and are exposed to street culture. It is this marginal group that is at most risk of becoming street children.*
- *Children in (or on) the streets are youngsters who spend a substantial portion of their time in the streets, usually as child workers, but tend to maintain a strong family link.*
- *Children of the streets tend to be few compared with the multitude seen working in the streets. These children have had their family ties severed through running away, abandonment, family disintegration or death of their parent(s). Many are abandoned or orphaned. They are socialised outside of the schools and the family with few conventional contacts with adults.*⁸²

Thus, street children and homeless children are overlapping categories. Not all street children are homeless, though housing poverty often lies at the root of their vulnerability. The main reason why minors become street children or homeless children is poverty. As Bahay Tuluyan, a Manila-based organisation that works for the empowerment of abused and exploited street children, told COHRE:

*[Street children] come from very poor families. Most of them are forced to stop going to school and they go instead to the streets to earn [a living].*⁸³

79 UNESCO (n. 1 above).

80 Response to COHRE Children and Housing Rights Questionnaire, received from former president of Fundação Estadual de Bem Estar do Menor, Brazil, September 2005; on file at COHRE.

81 UN Centre for Human Settlements (UN-HABITAT), *Strategies to Combat Homelessness*, HS/599/00E (Nairobi: UNCHS, 2000), <http://www.unhabitat.org/programmes/housingpolicy/documents/HS-599x.pdf>

82 Ibid., Executive Summary, para. 26. This typology was adopted by UN-HABITAT based on the definitions of ‘street children’ used by UNICEF.

83 Response to COHRE Children and Housing Rights Questionnaire, received from Bahay Tuluyan (Philippines), September 2005; on file at COHRE.

It is housing poverty, in particular, that pushes children out onto the streets to try to make a living. This happens, for example, when a growing family drives its older children out of the household due to insufficient space and household resources. However, several other ‘push factors’ are also relevant in this context, including: rural to urban migration; economic recession; unemployment of one or both parents; family trauma including substance abuse, illness or divorce; and domestic violence or child neglect.

Recognising housing poverty as one of the major push factors that makes children turn to a life on the streets is important not only from a human rights perspective, but also when it comes to formulating policy. Policy-makers who understand the connection between housing insecurity and the existence of street children and homeless children can more easily appreciate that the provision of adequate housing must be central to the rehabilitation and reintegration of such children. It is also critical to preventing children from becoming street children in the first place. Although adequate housing programmes may not redress every situation that results in a child seeking his or her future on the streets, they do help to alleviate a prime cause — poverty.

**THE DAILY REALITY FOR STREET CHILDREN: TESTIMONY OF LEAN-JOY
(MANILA, THE PHILIPPINES)**

“Once we rented a house. But it burnt down: nothing was left. Then we went on to the streets and that’s where we’ve lived ever since. It’s almost six years now. Our whole family moved to the streets and we’ve stayed together. We’re six children — three sisters and three brothers. I’m the eldest. I look after my brothers and sisters. ... It’s not beautiful in our area. There are many snatchers [people who snatch bags and valuables and make a run for it] and people shooting guns. Outsiders view us with suspicion.

“I’m studying even though I’m on the streets. I go to school at 12 noon and go home at seven in the evening. I work from 7 p.m. to five in the morning. My father does his barking while I work in the canteen. I also vend to the passengers during the night. I shout ‘Balut, penoy, palamig!’ [ducks’ eggs, eggs, juices], the things that I sell. We work close by, my father and I. I am always with my dad. He watches over us because we sleep on the streets. A drunkard might harm my brothers and sisters. It happened once when a drunkard did something to us — a very bad thing. That’s why our father watches us. He sleeps in the daytime when he is not afraid any more because we are not on the streets then but at school.

“Whenever we sell, we get chased by the MMDA [Metro Manila Development Authority]. They say it’s prohibited for vendors to be on the pavements. They destroy some of the items we sell; the others they keep for themselves to give to their families. Sometimes when we sleep on the pavements the DSWD [Department of Social Welfare and Development] people try to catch us. We run so we won’t be caught. If they catch us, they interview us. They say they will give us a house or a place in a centre, but that never happens. My mother got caught. One of them told her that we’d be given a house, but up to now there is nothing. ...

“We don’t have a house, but I don’t want to be adopted because there is no-one who will take care of my brothers and sisters. ... If the time comes that I have my own family, I will have a house by then. I will do everything so that my children will not experience how it is not to have a home.”

Excerpted from: ‘Lean-Joy: ‘I Shouldn’t Lose Hope Because It Won’t Be Forever’’, *New Internationalist*, issue 377, Apr. 2005, <http://www.newint.org/issue377/lean-joy.htm>. Lean-Joy spoke to Dinyar Godrej and Fran Harvey of the *New Internationalist* workers’ co-operative. Reprinted by kind permission of the *New Internationalist*. Copyright *New Internationalist*, <http://www.newint.org>

Children on the streets face many dangers and forms of abuse. These are not necessarily housing rights violations per se, but they do often stem directly from such violations. In accordance with the notion of indivisibility of human rights, it is easy to see that a housing rights violation often plunges a child into an uncertain and precarious future that may involve numerous other rights violations.

For street children and homeless children worldwide, the police are often the greatest source of physical abuse and violence. As numerous human rights organisations have documented, such children are often beaten, raped, tortured, detained or imprisoned without just cause by those who are supposedly responsible for ‘law enforcement’. In some countries it has been reported that vigilante groups are commissioned by the authorities to ‘get rid’ of or ‘eliminate’ street children and homeless children. According to the independent, non-governmental organisation Human Rights Watch:

Street children [and homeless children] throughout the world are subjected to physical abuse by police or have been murdered outright, as governments treat them as a blight to be eradicated—rather than as children to be nurtured and protected. They are frequently detained arbitrarily by police simply because they are homeless, or criminally charged with vague offences such as loitering, vagrancy, or petty theft. They are tortured or beaten by police and often held for long periods in poor conditions. Girls are sometimes sexually abused, coerced into sexual acts, or raped by police.⁸⁴

84 Human Rights Watch, ‘Children’s Rights: Street Children’, <http://hrw.org/children/street.htm>

VIOLENCE AGAINST STREET CHILDREN: TESTIMONY OF RICARDO (MONTEVIDEO, URUGUAY)

“My name is Ricardo and I am 16, but not for much longer. My birthday is in January, although I have never received a birthday present in my life. I’ve been living on the street for the last six years. ...

“It was my choice to live on the streets and not with my family. There were too many of us living in the small house in the cantigrill [slum]. I did not get on with my sister. She was the oldest and took control when my mother left. I didn’t like this. We’ve never got on very well. Also there wasn’t enough money for all of us to eat. It was terrible. So I took to the streets to be with my eldest brother who was already sleeping there, as were two of my other younger brothers. He lives in Parque Rodo [an amusement park; many children sleep in its abandoned underground bathrooms] and we could beg for money, as there were many people. But I was not with my brother for long. I began to sleep alone or sometimes with other children. Now I sleep in many different places but most of the time outside the cinema in Plaza Caganchua or in the bathrooms. ...

“Life on the street is hard enough but the police and other strangers make it worse. There are people on the street who molest children. I have been raped. The police are very violent with us; they don’t help us children, not even a little bit. Once when I was very hungry and desperate for clothes, which I couldn’t buy with my 200 pesos, I robbed a lady. She was walking down the street and I took her handbag. A policeman saw me. He grabbed me and beat me, no one stopped him. Then I was put in prison for nine months [in an adult prison without trial at the age of 14]. The prison was horrible. Horrible. The police beat me; they sprayed teargas or pepper spray or something in my eyes regularly. I was alone but at least I got four meals a day. That was great. [He shows his torso covered with scars and cigarette burns.]

“Other people do worse things. I knew a kid, nine years old, who slept in an abandoned car that had no wheels or windows because it was warm in there. One night a man came with a lighter and burned him alive. When we went to the police they did nothing. Nothing. I don’t understand why a man would do this The kid was only nine! It was a horrible thing to do, and for what? I don’t understand. ...

“If I could wave a magic wand and change one thing in the world I would have my mum live with my dad again. My dad is not so good. My dreams for the future are that I could work in a bakery, live in a proper concrete house, have a wife and start my own family. I want 15 or 20 children! But in reality none of this will happen to me. Nothing that I want can come true.

“I have one message for people: if at any time there is a child in the street without anything, somebody give him a plate of food. Gracias.”

Excerpted from: ‘Ricardo: ‘The Only Thing I Hate in the World is the Police’’, *New Internationalist*, issue 377, Apr. 2005, <http://www.newint.org/issue377/ricardo.htm>. Ricardo spoke to Jenny Smith, a freelance writer and volunteer fundraiser for Uruguayan street children. Reprinted by kind permission of the *New Internationalist*. Copyright *New Internationalist*, <http://www.newint.org>

Such violence against street children and homeless children is well-documented in many countries, including Brazil, Colombia, Guatemala, India and Kenya. In India, for example, an estimated 18 million children under age eighteen live and/or work on the streets — more than in any other country.⁸⁵ International human rights organisations have documented that, on a routine basis, Indian police illegally detain, beat, torture and sometimes even kill street children and homeless children.⁸⁶ In Guatemala, which has approximately 5 000 street children and homeless children between five and eighteen years old, serious violations of the human rights of such children have also been documented, including killings and torture.⁸⁷ In Bangladesh, young homeless girls taken into ‘safe-custody’ during police investigations into rape allegations are reportedly exposed to further sexual abuse at the hands of ‘law enforcement’ authorities.⁸⁸ In Brazil, street children and homeless children have been shot and killed while sleeping in public or semi-public places.⁸⁹ As Casa Alianza, a Central American organisation working with homeless youths, has noted of such children:

*Living on the edge of survival, they are often swept up in an undertow of beatings, illegal detentions, torture, sexual abuse, rape, and murder.*⁹⁰

Similar violence against street children and homeless children has also been documented in Haiti. In Dec. 2004, Haitian Street Kids, Inc. reported the following in an open letter:

*Carloads of men referred to as ‘ancienne militaires’ [former soldiers], who are actually members of the now disbanded military, have begun patrolling the streets of Port au Prince and are indiscriminately murdering street children [and homeless children] for no reason other than sport. These men prowl the streets of the city in groups of 6 to 10 with high powered military assault rifles, shotguns and 9 mm pistols, wearing all-black uniforms with black ski masks over their heads to conceal their identities. They justify the murders of these boys by referring to them as ‘vagabonds’ and say that they are ‘cleaning the streets’.*⁹¹

As a direct result of the global housing crisis coupled with population growth, the numbers of street children and homeless children in the world’s urban centres are growing daily. Here, for example, are some fairly recent estimates:

85 Id., Children’s Rights Project, *Police Abuse and Killings of Street Children in India* (New York: Human Rights Watch, 1996), <http://www.hrw.org/reports/1996/India4.htm>

86 Ibid.

87 Human Rights Watch, *Guatemala’s Forgotten Children: Police Violence and Abuses in Detention* (New York: Human Rights Watch, 1997), <http://www.hrw.org/reports/1997/guat1/>

88 Amnesty International, *Children in South Asia: Securing Their Rights* (London: Amnesty International, 1998), <http://www.amnesty.org/ailib/intcam/childasia/report.htm>

89 International Child Resource Institute (ICRI), ‘Street Children: More and More Killed Everyday’, 24 Apr. 1995, http://pangaea.org/street_children/latin/brazil.htm. See also: Response to COHRE Children and Housing Rights Questionnaire, received from Fundação de Assistência Social e Cidadania (Foundation for Social Assistance and Citizenship), Prefeitura Municipal de Porto Alegre, Brazil, September 2005; on file at COHRE.

90 Casa Alianza Latinoamérica, <http://www.casa-alianza.org/es/index.php>

91 Michael Brewer (registered nurse), ‘Letter from Haiti’, 6 Dec. 2004, Haitian Street Kids, Inc., <http://haitianstreetkids.com/>.

NUMBERS OF STREET CHILDREN AND HOMELESS CHILDREN IN MAJOR CITIES

Bucharest, Romania	approx. 1 000 street children and homeless children ⁹²
Nairobi, Kenya	over 60 000 children living or working on the streets ⁹³
Addis Ababa, Ethiopia	approx. 40 000, of which some 10 000 are children living in the streets without care or support ⁹⁴
Tehran, Iran	25 000 - 30 000 street children and homeless children ⁹⁵
Kabul, Afghanistan	nearly 30 000 street children and homeless children ⁹⁶
Kolkata (Calcutta), India	75 000 - 200 000 children living and working in the streets ⁹⁷
Dhaka, Bangladesh	approx. 450 000 street children and homeless children ⁹⁸
Manila, the Philippines	50 000 - 70 000 street children and homeless children ⁹⁹

A comprehensive list would be far longer. Note that exact numbers of street children and homeless children are notoriously difficult to determine, though UNICEF has estimated that there are about 40 million in Latin America, 30 million in Asia and 10 million in Africa. (No reliable figure is available for Europe.) However, these figures are between seven and nine years old; presumably, the actual numbers will have increased considerably in the intervening period.¹⁰⁰ Indeed, anecdotal evidence indicates that numbers of street children and homeless children are increasing alarmingly in many countries, due to uncontrolled urbanisation linked to poverty, armed conflict and HIV/AIDS, the latter of which, in particular, is orphaning many children.¹⁰¹

Because of their vulnerable and marginalised status, street children and homeless children experience horrors that no child should ever have to confront. As illustrated by a study on experiences of sexual coercion among street boys in Bangalore, India, life on the street is fraught with peril, including sexual and physical abuse, drugs and alcohol.¹⁰² According to UN-HABITAT, several studies have shown that around 80 percent

92 Casa Alianza, 'Exploitation of Children: A Worldwide Outrage', Sept. 2000, <http://www.hiltonfoundation.org/press/16-pdf3.pdf>. See also: Response to COHRE Children and Housing Rights Questionnaire, received from Marconi Foundation, Romania, September 2005; on file at COHRE.

93 Ula Löw, 'A World of Violence: The Daily Battles of Nairobi's Street Children', UN-HABITAT document, www.unhabitat.org/mdg/documents/africa/Vol4_No1_nairobi_battles.doc; BBC News, 'Aids Makes a Continent of Orphans', 30 June 2005, <http://news.bbc.co.uk/1/hi/world/africa/4631911.stm>

94 UNICEF (n. 78 above).

95 BBC News, 'In Pictures: Tehran's Street Children', http://news.bbc.co.uk/2/shared/spl/hi/picture_gallery/o4/middle_east_tehranos_street_children/html/1.stm

96 UNHCR News Story, 'UNHCR brings health care to Kabul's street children', 23 Dec. 2004, <http://www.unhcr.org/cgi-bin/texis/vtx/news/openssl.htm?tbl=NEWS&id=41caca984>

97 Casa Alianza (n. 92 above).

98 AusAID, 'Make me Visible', *Focus* magazine, Vol. 20, No. 4, Sept. 2005, <http://www.usaid.gov.au/publications/pubs.cfm?Type=PubFocus>

99 Casa Alianza (n. 92 above).

100 Ibid.

101 Consortium for Street Children, 'Frequently Asked Questions', <http://www.streetchildren.org.uk/faq/>

102 J. Ramakrishna, M. Karott and R.S. Murthy, 'Experiences of sexual coercion among street boys in Bangalore, India', *Towards Adulthood: Exploring the Sexual and Reproductive Health of Adolescents in South Asia*, pp. 95-98 (Geneva: Department of Reproductive Health and Research (RHR), World Health Organization, 2003), http://www.who.int/reproductive-health/publications/towards_adulthood/index.html

of street children use drugs regularly.¹⁰³ Such children are highly prone to sexually transmitted diseases, as they are likely to be raped and may submit to unprotected 'survival sex' to meet their basic needs.¹⁰⁴ Indeed, research indicates that among some groups of street children, over two-thirds have been physically or sexually abused.¹⁰⁵ Only a small fraction of the children who live on the streets attend school, and even those that do can only do so infrequently.¹⁰⁶

The phenomenon of street children and homeless children is not confined to the 'developing world'; such children also inhabit the streets and sidewalks of the world's richest cities. In the United States, poverty and the lack of affordable housing are the principal causes of family homelessness. According to the National Coalition for the Homeless (NCH), almost 40 percent of those currently living in poverty in the US are children, and an estimated 1.2 million children are homeless on any given night.¹⁰⁷ Strikingly for the richest country in the world, the poverty rate among children is almost double that among the second-poorest age group.¹⁰⁸ The NCH has also noted that homeless children in the US are in poor health twice as often as other children, and have higher rates of asthma, ear infections, stomach complaints and speech problems.¹⁰⁹

Compared to other children, homeless children in the USA are also more susceptible to mental and emotional health problems, including anxiety, depression and withdrawal. Furthermore, they are twice as likely to experience hunger, and four times as likely to exhibit delayed development.¹¹⁰ Clearly, these physical and mental health complications stem directly from the unacceptable situation that children's housing rights are not sufficiently respected, protected and fulfilled. Addressing the root cause of homelessness would provide children with a more solid foundation on which to realise their full range of human rights.

103 UN Centre for Human Settlements (UN-HABITAT) (n. 81 above).

104 Ibid., and Ramakrishna *et al.* (n. 102 above). See also: J.M. Greene, S.T. Ennett, and C.L. Ringwalt, 'Prevalence and Correlates of Survival Sex among Runaway and Homeless Youth', *American Journal of Public Health*, Vol. 89, Issue 9, (Sept. 1999), <http://www.ajph.org/cgi/content/abstract/89/9/1406>; World Health Organization (WHO), Department of Mental Health and Substance Dependence, 'Module 1: A Profile of Street Children', *Working with Street Children: A Training Package on Substance Use, Sexual and Reproductive Health, including HIV/AIDS and STDs*, WHO/MSD/MDP/00.14 (Geneva: WHO, 2000), http://whqlibdoc.who.int/hq/2000/WHO_MSD_MDP_00.14_Module1.pdf

105 UN Centre for Human Settlements (UN-HABITAT) (n. 81 above).

106 Ibid.

107 National Coalition for the Homeless (NCH), 'Homelessness Families with Children', NCH Fact Sheet #7, 28 June 2004, <http://www.nationalhomeless.org/>

108 Ibid.

109 Ibid.

110 Ibid.

4.2 CHILDREN LIVING IN INADEQUATE HOUSING

“The overcrowding, poor housing and lack of adequate sanitation make [slum] areas ideal staging areas for epidemics of child killers like diarrhea, measles and acute respiratory infections.”

— Carol Bellamy, UNICEF ¹¹¹

“There are so many case studies of children getting ill due to the unhygienic housing conditions in our community, since most of them live in very small houses without proper ventilation.”

— Saahasee Society for Community Empowerment and Urban Transformation, India ¹¹²

Children are profoundly affected when the homes in which they live are in poor condition. In slums all over the world, millions of children live in deplorable conditions that render them vulnerable to disease and even death. As Miloon Kothari, the United Nations Special Rapporteur on the right to adequate housing, has stated:

*In many countries, the quality of housing in the urban poor areas is dismal. Settlements are overcrowded, with low and poor standards of environment[al] sanitation. Sanitation services are inadequate and most often not child-friendly, having an adverse impact on the health of children.*¹¹³

As noted in Subsection 4.1 above, inadequate living conditions, including overcrowded housing or violence within the home, can force some children to abandon their homes altogether in order to seek out a better life on the streets. As the Pilot Centre for Educational Programming in Cameroon told COHRE:

*The effects of inadequate housing on children [are] enormous and deplorable. A typical example of inadequate housing in Cameroon is found in the rural areas of the Northern region. Here, houses are built in the form of huts. Since the birth rate here is too high, a single hut can have about 12 occupants; a father, mother and about 9 or 10 children. These families are often poor and not all of these children have the privilege of acquiring education. Few are educated and the rest are left to fend for themselves. Since living conditions are often too hard at home, they easily declare their independence and leave the house and in most cases end up in the street.*¹¹⁴

111 Keynote address by Carol Bellamy, Executive Director of UNICEF, delivered by Edwin J. Judd, Director, Programme Division, UNICEF, the 12th Annual IHMEC [International Health Medical Education Consortium, now known as the Global Health Education Consortium, GHEC] Conference on health challenges for children in world cities, New York, 6 Mar. 2003, http://www.unicef.org/media/media_9301.html

112 Response to COHRE Children and Housing Rights Questionnaire, received from Saahasee Society for Community Empowerment and Urban Transformation, Delhi, India, September 2005; on file at COHRE.

113 Statement of Mr Miloon Kothari, Special Rapporteur on adequate housing to the Special Session of the General Assembly on Children, New York, 8-10 May 2002, <http://www.unhchr.ch/housing/ungass.htm>

114 Responses to COHRE Children and Housing Rights Questionnaire, received from Pilot Centre for Educational Programming – Yaounde, Cameroon, August 2005; on file at COHRE.

In a study of child health in the slums of Dhaka, Bangladesh, researchers found that high infant mortality was attributable to inadequate socio-economic and environmental conditions, including inadequate hygiene. The most frequently reported causes of death were tetanus in infants, followed by diarrhoea and respiratory infections among children in their first year of life. Faecal contamination in the slums is a major environmental health concern, responsible for the death of approximately three million children a year, and the infection of hundreds of millions.¹¹⁵

These preventable child deaths are a direct result of inadequate housing conditions that are extremely detrimental to the health and well-being of young children. Lack of clean drinking water and adequate sanitation, for example, are intimately related to inadequate housing conditions. Only half the children in the developing world have access to clean drinking water, and fewer have access to sanitary waste facilities.¹¹⁶ The health of very young children is closely related to poor living conditions and lack of hygiene. Due to shortage of water, open drains, inadequate latrines, and piles of rubbish and human excreta, infectious diseases such as diarrhoea and dysentery spread more readily than would otherwise be the case. Frequent episodes of diarrhoea during early childhood often contribute to malnutrition, which in turn increases the severity of the diarrhoea. This vicious cycle may ultimately lead to death, which could easily be prevented with limited resources.¹¹⁷

Any solution to these problems must necessarily involve the provision of clean water and sanitation. This would be a major step in the right direction, both in terms of securing children's housing rights and ensuring every child's right to survival and development. Studies in slum areas have shown that by improving water quality and sanitation, child mortality can be reduced by more than 55 percent, which again shows that ensuring basic housing adequacy can have a substantial impact on child survival.¹¹⁸

Apart from lack of access to adequate water and sanitation, there are other aspects of inadequate housing that can negatively affect children's health. In a study of children's experiences of the physical environment in poor urban settlements, researchers noted that respiratory disease partly related to household conditions is a leading cause of death and morbidity in young children living in the developing countries of the Global South. Overcrowding and poor ventilation in slums makes it easier for infectious diseases to spread, and children's susceptibility to respiratory illness is increased by dampness, as well as poor indoor air quality resulting from open fires or poorly vented stoves.¹¹⁹ For example, the high prevalence of acute respiratory infection among children in the city of Ahmedabad, Gujarat, India, is due to severely polluted air and the use of cooking fuels inside crowded, unventilated dwellings.¹²⁰

Again, inadequate housing is not a problem confined to the developing world. In the United Kingdom, one in 12 children are more likely to develop diseases such as bronchitis, tuberculosis or asthma because of inadequate housing, according to a report by the British housing advocacy group Shelter.¹²¹ In the year 2000, the Canadian Institute of Child Health found that 30 percent of families with children in rented

115 A. Hussain, S.M. Keramat Ali and G. Kvåle, 'Determinants of mortality among children in the urban slums of Dhaka city, Bangladesh', *Tropical Medicine and International Health*, Vol. 4, No. 11, pp. 758–764, Nov. 1999, <http://www.blackwell-synergy.com/doi/abs/10.1046/j.1365-3156.1999.00485.x>

116 Rehydration Project, 'Ten Basic Facts About the World's Children', http://www.rehydrate.org/facts/ten_facts.htm

117 Id., <http://www.rehydrate.org/dd/dd31.htm>

118 Hussain, *et al.* (n. 115 above).

119 S. Bartlett, 'Children's experience of the physical environment in poor urban settlements and the implications for policy, planning and practice', *Environment & Urbanization*, Vol. 11, No. 2, Oct. 1999, pp. 63–74, <http://eau.sagepub.com/cgi/content/abstract/11/2/63>

120 Fry *et al.*, (n. 13 above).

121 See: BBC News, 'Million children in poor housing' (n. 8 above).

accommodation and 13 percent of families with children in owner-occupied homes were living in crowded housing conditions. Such conditions were associated with poorer school performance and the spread of viral and bacterial infections.¹²² In the US, homelessness and poor housing conditions are also factors that contribute to, or prolong, the placement of children in foster care, in some cases compromising the right of children to family life.¹²³ Thus, the quality of housing and community space affects not only the physical health and safety of children, but also their capacity to learn and their emotional and social well-being.

UPHOLDING THE HOUSING RIGHTS OF INDIGENOUS CHILDREN IN AUSTRALIA

For centuries, indigenous peoples throughout the world have been deprived of their human rights and fundamental freedoms. Not only have they been dispossessed of their traditional territories and natural resources, but they have been prevented from exercising their rights to development and culture in accordance with their own needs and interests. Indigenous children, in particular, continue to face disproportionately high rates of poverty and are more likely to suffer housing rights violations than non-indigenous children. This situation is true in both poor and affluent countries. For example, in its recent Concluding Observations on Australia, the United Nations Committee on the Rights of the Child expressed concern over the fact that indigenous children in that country still need a considerable improvement of their standard of living, including access to adequate housing. In this regard, the Committee recommended that the Government of Australia increase its efforts to provide affordable housing options for, and take all possible measures to raise the standard of living of, indigenous children and children living in rural and remote areas. The Committee urged the Government to pay particular attention to fully implementing the Convention on the Rights of the Child by prioritising budgetary allocations “to the maximum extent of ... available resources”. The Government should thus ensure implementation of the economic, social and cultural rights of children — in particular those belonging to disadvantaged groups, such as indigenous children.

Prior to issuing those Concluding Observations, the Committee had also called upon all States Parties to the Convention to take effective measures, including through legislation, to ensure that indigenous children enjoy all of their rights equally and without discrimination. This would require that they be given equal access to culturally appropriate services, including health, education, social services, housing, potable water and sanitation.

Sources: UN Committee on the Rights of the Child: Concluding Observations on Australia, UN Doc. CRC/C/15/Add.268 (2005); and Recommendations: General Day of Discussion on the Rights of Indigenous Children, 3 Oct. 2003.

122 Canadian Institute of Child Health (CICH), *The Health of Canada's Children: A CICH Profile, 3rd Edition*, (Ottawa, Canada: CICH, 2000). See also: Andrew Jackson and Paul Roberts 'Physical Housing Conditions and the Well-Being of Children' [background paper], Canadian Council on Social Development, Mar. 2001, <http://www.ccsd.ca/pubs/2001/pcc2001/housing.htm>

123 The National Alliance to End Homelessness, Inc., 'Tools to End Homelessness Among Families', <http://www.endhomelessness.org/pub/ACFstaterecs.pdf>

COHRE firmly believes that if States and the international community as a whole are to make meaningful progress on issues of child health, development and survival, they must meet the challenge of improving the often appalling living conditions of children; in particular, their inadequate housing conditions, which are a major part of the problem.

4.3 ORPHANS AND CHILD-HEADED HOUSEHOLDS

“From Cape Town to Addis Ababa, and from Mombasa to Luanda, Africa’s city streets are home to children who have nowhere better to go. War, poverty and abuse have all played a part in putting them there — but it is the AIDS epidemic, more than any other single factor, that has swollen the number of children sleeping in the continent’s gutters and abandoned buildings.”

— BBC News, ‘AIDS Makes a Continent of Orphans’, 30 June 2005¹²⁴

“It was very difficult, because there was a lot of stigma. People would say we were suffering because our mother was promiscuous, that’s why she died. Our neighbours disliked us and didn’t listen to anything we said. When our mother was sick, they wouldn’t even pass by the door or come into our house. At school, the kids knew my mother was sick but we never told them she had HIV. When she died, we just left school immediately. I didn’t even find it important to stay. Even if they had let me stay free of charge, I still needed to go and find odd jobs so I could feed the family and pay the rent.”

— A Kenyan girl who lost her mother to HIV/AIDS when she was 17 and had to care for her four siblings¹²⁵

A large proportion of the world’s children who experience poverty-related housing rights violations are orphans and children living in child-headed households. These children are among society’s most vulnerable, lacking parental care because death has struck their family, or cast out to fend for themselves at far too early an age.

¹²⁴ BBC News, <http://news.bbc.co.uk/2/hi/africa/4631911.stm>

¹²⁵ Human Rights Watch, ‘Children’s testimonies from Letting Them Fail: Government Neglect and the Right to Education for Children Affected by AIDS’, 10 Oct. 2005, <http://hrw.org/english/docs/2005/01/07/safri11841.htm>

UNICEF defines a child-headed household as one in which one or more children have had to take over as head of their household and fend for themselves without the care of an adult.¹²⁶ Such ‘heads of household’ vary considerably in age. In a study of child-headed households in Kenya, for example, researchers found that about one quarter of them consisted of fairly young children, the oldest being not more than 10 years of age. Forty-four percent of the households studied were headed by adolescents aged 11 to 15 years.¹²⁷ In many cases, these children were orphans desperately trying to take care of their younger siblings. Needless to say, the economic situation such children face is often bleak. With no one to look after them, they are extremely vulnerable to abuse and exploitation by adults. Many end up as street children or homeless children, sacrificing their schooling in order to find work, no matter how dangerous it may be. Providing adequate housing for such children would help to alleviate the economic pressures that they face, giving them a secure place to be together with their siblings and try to rebuild their lives.

In recent years, the global phenomenon of child-headed households has been exacerbated by natural disasters, wars and the HIV/AIDS pandemic. In Rwanda alone, as a result of the 1994 genocide, some 227 000 households are now headed by children.¹²⁸ In Swaziland, as many as one in ten households are run by orphans.¹²⁹ Children growing up in child-headed households face many challenges and suffer a range of deprivations due to poverty. According to the Community Law Centre (CLC) of the University of the Western Cape (South Africa), these include:

- *Difficulty in getting food and shelter;*
- *Serious threats to their education because of poverty;*
- *A higher risk of being sexually abused by neighbours and relatives;*
- *More child prostitution and child labour; and*
- *Greater likelihood of pursuing life on the street.*¹³⁰

The CLC also reports that:

*Children living in child-headed households may struggle to get births registered, and to get health care treatment, social security and other state mechanisms which can help them. Rules of inheritance in customary law make children vulnerable to being dispossessed of their houses and land. ‘Property grabbing’ by families and communities, who seize the land, cattle, and other assets when household heads die, is linked to the spread of HIV/AIDS across Africa.*¹³¹

Deprivation of housing is a key housing rights violation suffered by orphans. Property grabbing – when members of the extended family divide the household property among themselves and leave the children with nothing – is a serious issue for orphans and child-headed households. When the parents die, relatives or

126 UNICEF New Zealand, ‘Child-Headed Households’, <http://www.unicef.org.nz/school-room/hivaids/childheadedhouseholds.html>

127 M.A. Ayieko, ‘From Single Parents to Child-Headed Households: The Case of Children Orphaned by AIDS in Kisumu and Siaya Districts’ (Study Paper No. 7), UNDP HIV and Development Programme, Sept. 1997, <http://www.undp.org/hiv/publications/study/english/sp7e.htm>

128 UNICEF Statement, ‘Day of General Discussion on “Children without Parental Care” [before UN Committee on the Rights of the Child, 37th session], 15 Sept. 2005, http://www.crin.org/docs/resources/treaties/crc.40/GDD_Yuster_Statement.pdf. See also: BBC News (n. 93 above).

129 UNICEF New Zealand (n. 126 above).

130 Julia Sloth-Nielsen, *Realising the Rights of Children Growing up in Child-Headed Households: A Guide to Laws, Policies and Social Advocacy* (Bellville, South Africa: Community Law Centre, University of the Western Cape, 2004), http://www.communitylawcentre.org.za/ser/docs_2004/Child-headed-households_1.pdf, p.2.

131 Ibid.

other adults take over housing, land and furniture; even household items. Too often, nothing is spared for the orphaned children, leaving them alone and destitute.¹³² For girl children, this problem is even more acute due to gender-based discrimination and the idea that girls and women are not entitled to property ownership.

As noted above, the phenomenon of child-headed households in Africa is closely tied to the HIV/AIDS epidemic. According to UNICEF and UNAIDS, in sub-Saharan Africa, 11 million children under the age of 15 have lost at least one parent because of HIV/AIDS.¹³³ More than half of the children orphaned by HIV/AIDS in that region are between the ages of 10 and 15.¹³⁴ Many AIDS orphans do not have access to a stable, adequate housing situation that meets their needs and ensures their rights. By the year 2010, the number of AIDS orphans worldwide is expected to rise to between 20 and 25 million.¹³⁵

In Africa, extended families have assumed responsibility for more than 90 percent of the AIDS orphans.¹³⁶ In cases where such orphans are taken in by relatives, family resources are often stretched to the breaking point. Because of deprived economic conditions in many African countries, extended families find it impossible to take on their traditional care-giving role. This situation leaves even more orphaned children at risk of homelessness and abject poverty. Housing conditions, in particular, are often too inadequate to allow families to take in and shelter orphaned children.

In a report on orphaned children in Namibia, UNICEF reported that:

*It is evident that the majority of households (but not all households) looking after orphan children are suffering financial hardships as a result. In most cases, the caregiving household was not able to rely on financial support from the dying parent(s) because either the family was already in poverty, or because they used their resources treating the dying parent(s). Further, many of the caregiving households are already severely poverty-stricken, and the loss of an income-earner (a common circumstance in the case of AIDS) is devastating.*¹³⁷

Data drawn from ten African countries suggests that orphans tend to live in poorer households than non-orphans.¹³⁸

In its General Comment No. 3 on HIV/AIDS and the rights of the child, the United Nations Committee on the Rights of the Child underscored “the necessity of providing legal, economic and social protection to affected

132 IRIN PlusNews (news and information service of the UN Office for the Coordination of Humanitarian Affairs), ‘Botswana: AIDS orphans exploited’, 8 Oct. 2002, <http://www.irinnews.org/pnprint.asp?ReportID=1477>

133 UNAIDS/UNICEF fact sheet ‘Children Orphaned by AIDS in sub-Saharan Africa’, http://data.unaids.org/Publications/Fact-Sheets03/FS_Orphans_Africa_en.pdf

134 Ibid., and UNICEF, ‘Africa’s Orphan Crisis: Worst Is Yet to Come’, Press Release, 26 Nov. 2003.

135 UNICEF, ‘Africa’s Orphaned Generations’, 2003, http://www.unicef.org/publications/index_16271.html. See also: USAID, UNICEF and UNAIDS, ‘Children on the Brink 2002: A Joint Report on Orphan Estimates and Program Strategies,’ July 2002, http://www.usaid.gov/our_work/global_health/aids/Publications/docs/childrenbrink.pdf

136 UNAIDS/UNICEF (n. 133 above).

137 UNICEF, ‘Inception Report: A Situation Analysis of Orphan Children in Namibia’, (NMB 2000/010), 2000, http://www.unicef.org/evaldatabase/index_14596.html

138 A. Case, C. Paxson, and J. Ableidinger, ‘Orphans in Africa: Parental Death, Poverty and School Enrollment’, Center for Health and Well-being, Research Program in Development Studies, Princeton University, revised version, March 2004, http://www.wws.princeton.edu/rpds/downloads/case_paxson_orphanafrika.pdf

children to ensure their access to education, inheritance, shelter and health and social services”. The Committee also noted that:

States parties are particularly reminded to ensure that both law and practice support the inheritance and property rights of orphans, with particular attention to the underlying gender-based discrimination which may interfere with the fulfilment of these rights.

States Parties were also encouraged to provide support, financial and otherwise, to child-headed households, when necessary.¹³⁹

Again, the basic provision of adequate housing to the most vulnerable children can help to give them the safety and security they need to face the challenges that life poses to them. Providing a stable, adequate home is one of the first steps States should take to enable all orphans and children without parental care to have a brighter future.

4.4 THE GIRL CHILD

In addition to the housing rights violations they may suffer, girl children often face unique difficulties due to gender-based discrimination and violence. This is true for girls who are orphaned, girls who live in inadequate housing, girls who are forcibly evicted, girls who live and work on the street, and girls who become displaced.

Typically, there are more street boys than street girls; though, as the World Health Organization has pointed out, street girls tend to be less ‘visible’ than their male counterparts. Some street girls even disguise themselves as boys to protect themselves from sexual harassment and abuse by other street children, employers, welfare workers and the police. Other street girls tend to appear on the streets only at night.¹⁴⁰

139 UN Committee on the Rights of the Child, ‘General Comment No. 3 (2003): HIV/AIDS and the rights of the child’, UN Doc. CRC/GC/2003/3, 17 Mar. 2003, <http://www.unhcr.ch/html/menu2/6/crc/doc/comment/hiv.pdf>

140 World Health Organization (n. 104 above).

THE LIFE OF A STREET GIRL: TESTIMONY OF RUKSHANA (MUMBAI, INDIA)

“First thing when we wake up, we wrap up all our bedding and hide it in a tree. It’s a 10-minute walk from the bridge where we sleep, over the railway tracks near Mahim station. Then I take my sister Deepa to the toilets near the station. We wash our faces, brush our teeth and then go to Uncle’s tea stall at Platform 1. After that we go to Bandra for breakfast, and then start work.

“We go to the shelter outside Dadar station, take our goods from the locker and go into the local trains to sell them. I sell trinkets, clips, cookery and henna pattern books in the trains. Before we had the locker we used to keep all our stuff under our heads and sleep. Even when you sleep, you have to be alert. If you are deep in sleep, not only will someone take your goods, they can also pick you up and take you. It happened to one girl I know. A gang of boys picked her up and took her to Dadar Tilak bridge and did bad things to her. She had to have stitches. The boys were taken to the police station. She cried for many days. Everyone said to her: ‘You are disgraced!’ She thought: ‘Whatever I do I am shamed, so why should I live like this?’ That’s why she chose to go into wrong work as a prostitute

“Even I was taken into wrong work. One day I told Deepa [Rukshana’s 11-year-old sister]: ‘You sell the stuff. I am going out with my friend to watch a film.’ My friend took me to a place in Bombay Central. There, she took some money from a man and told me: ‘Go into my room.’ She took off my dupatta [cloth worn draped over the shoulders]. I asked her what she was doing. She said: ‘Take off your dupatta and go to sleep.’ How could I if that man was there? I put my dupatta on, kicked the man in his pants, and ran out. ... It’s difficult for girls to live alone on the street. There are people so horrible that they won’t even leave a one-year-old girl alone. Most street kids live at railway stations. Some are begging or pick-pocketing, others are addicted to solution [glue]. I have never even picked up another person’s penny. I get very scared. And I’ve never tried drugs. Many boys have offered them to me but I abuse them and chase them away.”

Excerpted from: ‘Rukshana: ‘It’s easy to fall in love, but very difficult to endure it’’, *New Internationalist*, issue 377, Apr. 2005, <http://www.newint.org/issue377/rukshana.htm>. Rukshana spoke to Dionne Bunsha. Reprinted by kind permission of the New Internationalist. Copyright New Internationalist. <http://www.newint.org>

In general, street girls face alarmingly high rates of sexual exploitation and abuse, which leaves them psychologically traumatised and exposes them to sexually transmitted disease and unwanted pregnancy.¹⁴¹ Some street girls who are arrested for begging or vagrancy are then coerced by police into providing sexual services in exchange for their release, or are raped while in police custody.¹⁴² As the World Health Organization has reported, street girls usually have fewer economic opportunities than boys and are paid less than

141 B.B. Patro, ‘India-AIDS: Street Children Are Most Vulnerable’, *InterPress News Service (IPS)*; 3 Sept. 1997, <http://www.aegis.com/news/ips/1997/IP970902.html>

142 Human Rights Watch, ‘Promises Broken: An Assessment of Children’s Rights on the 10th Anniversary of the Convention of the Rights of the Child: Police Abuse and Arbitrary Detention of Street Children’, New York, Dec. 1999, <http://www.hrw.org/campaigns/crp/promises/police.html>

boys for doing similar work.¹⁴³ In turn, such discrimination leaves girl children more vulnerable to further abuse and exploitation, and makes it more difficult for them to make the vital transition to a life off the streets and to find adequate housing if they are homeless.

Inadequately housed girl children in slums and informal settlements also face unique problems, many of which are related to a lack of privacy and exposure to gender-based violence, including sexual violence. Girls in such communities often live in constant fear of physical and/or sexual violence and abuse; they are exposed to HIV/AIDS, have unequal access to education, and are overburdened with domestic responsibilities.¹⁴⁴ One girl living in Nairobi's massive Kibera slum, a secondary school student, told the United Nations humanitarian news and information service, IRIN PlusNews, that she can hardly step out of her home at night for fear of being sexually assaulted. She remarked: "I like being a girl, but I want to know my rights".¹⁴⁵

Because gender-based violence is so prevalent in slums, not only the general lack of privacy but also the inadequate services that are typical of such settlements expose girl residents to heightened risks to their personal security. For example, Ethiopian children interviewed by UNICEF complained that their homes had neither piped water nor toilets. Far more of these complaints came from girls than from boys.¹⁴⁶ Communal toilets in slums are notorious as places where women and girls are sexually assaulted.¹⁴⁷ This situation is indicative of the gender dimensions of the right to adequate housing; in this case, in relation to availability of services, materials, facilities and infrastructure. With respect to security of tenure, it is well documented that girls and women suffer disproportionately when they are forcibly evicted. Forced eviction and the ensuing homelessness may entail gender-based physical and sexual violence, as well as economic and social marginalisation aggravated by gender discrimination.¹⁴⁸

All around the world, girls also face particular dangers in camps for refugees and internally displaced persons (IDPs). A recent study of sexual and gender-based violence in the Pabbo IDP Camp of Gulu District, Northern Uganda, found that girls aged between 13 and 17 are most frequently reported to have been subjected to such violence, including rape.¹⁴⁹ Approximately 63 000 people inhabit the camp, and although researchers noted that it may be impossible to reveal the true incidence of sexual and gender-based violence there, there is every indication of extremely high rates of abuse and exploitation among girls.¹⁵⁰

143 World Health Organization (n. 104 above).

144 IRIN PlusNews (news and information service of the UN Office for the Coordination of Humanitarian Affairs), 'Kenya: Bridging the reproductive health gap for girls in Nairobi slums', 14 Jan. 2004, http://www.irinnews.org/AIDSreport.asp?ReportID=2916&SelectRegion=East_Africa

145 Ibid. Too often, girls living in inadequate housing do not have access to sexual and reproductive care and outreach programmes, which are generally targeted only at married women. Similarly, youth outreach programmes often exclude girls.

146 UNICEF (n. 78 above).

147 T. Okioga, 'The Unheard Voices of Women: Kenya', *Water for Cities* [quarterly newsletter], Issue 17, Jan.-Mar. 2004 (Nairobi, Kenya: UN-HABITAT, Water, Sanitation and Infrastructure Branch, 2004).

148 COHRE, *Violence: The Impact of Forced Evictions on Women in Palestine, India and Nigeria* (Geneva, Switzerland: COHRE, 2002), <http://www.cohre.org/downloads/women2002.pdf>. See also: Ingrid Westendorp, background paper on 'Women's right to adequate housing', submitted for day of general discussion on art. 3 of the Covenant: equal right of men and women to the enjoyment of economic, social and cultural rights set forth in the Covenant (13 May 2002), UN Doc. E/C.12/2002/4, 4 Feb. 2002, [http://www.unhchr.ch/tbs/doc.nsf/o/5c4b326190927c04c1256baa003639e4/\\$FILE/Go240387.pdf](http://www.unhchr.ch/tbs/doc.nsf/o/5c4b326190927c04c1256baa003639e4/$FILE/Go240387.pdf)

149 A. C. Okot, A. Isabella and O. Gerald, *Suffering in Silence: A Study of Sexual and Gender-Based Violence (SGBV) in Pabbo Camp, Gulu District, Northern Uganda* (Gulu District Sub Working Group On SGBV, Jan. 2005).

150 Ibid.

In such situations of poverty and inadequate housing conditions, girls also tend to be burdened with a disproportionate share of family and household responsibilities, too often sacrificing their right to education in the process. Although boys undeniably suffer some of the same consequences, it is girls who shoulder the bulk of the burden due to gender-based discrimination. In the context of the HIV/AIDS pandemic, for example, girl children are especially disadvantaged: gender-based discrimination results in a rigid division of labour, with girls doing far more work in and around the house than their brothers, and far more likely to have to care for terminally ill family members. Orphaned girls are especially vulnerable to property-grabbing by family members, as well as sexual exploitation and trafficking.¹⁵¹ Furthermore, girls are often denied their right to inherit property on equal terms with male siblings, which again compromises their right to adequate housing.

For girls, realising their right to adequate housing includes providing for their safety and freedom from gender-based violence. The ‘best interests of the child’ principle must take account of the realities that children face with respect to discrimination. In order to make this standard meaningful for girl children, the intersection of gender-based discrimination and housing rights violations must be fully illuminated and combated.

In some countries, progress has been made on girls housing rights. In South Africa’s landmark *Bhe* case, for example, gender discrimination in the area of inheritance was explicitly found to contravene national law. The *Bhe* case concerned two girl minors who sought to inherit their deceased father’s estate. The case was brought against their grandfather who, under ‘black’ customary law, was to inherit his deceased son’s estate. The grandfather had previously indicated his intention to sell the girls’ home. The girls sought a Court Order that the customary rule of primogeniture (inheritance by the eldest surviving son, or, in his absence, another male blood relative) must be interpreted and developed in line with the South African Constitution, so as to allow them and other girls in their position to inherit from their deceased father’s estate. In its final judgment, the South African Constitutional Court ruled that:

*The rule of male primogeniture as it applies in customary law to the inheritance of property is declared to be inconsistent with the Constitution and invalid to the extent that it excludes or hinders women [and girls] and extra-marital children from inheriting property.*¹⁵²

151 Sloth-Nielsen (n. 130 above). See also: UNAIDS/UNICEF (n. 133 above).

152 Constitutional Court of South Africa, *Bhe and Others v. The Magistrate, Khayelitsha and Others*, Case CCT 49/03, 2005 (1) BCLR 1 (CC), 15 Oct. 2004, <http://www.constitutionalcourt.org.za/Archimages/2167.PDF>

IMPORTANCE OF THE INHERITANCE RIGHTS OF GIRLS

“Inheritance rights are also of great importance to girl children, who in many cases are unable to inherit equally with their brothers, despite the fact that inheritance rights are vital to their well-being and security. Girls are often denied their inheritance rights for much the same reasons that widows are denied theirs. In both cases, the rationale stems from gendered (that is, gender-based) expectations. These expectations are in themselves conducive to an unequal situation, which then often becomes even more imbalanced in conditions of poverty and hardship. Extended families often fear that it is inappropriate for a girl to be given property because she will one day marry and become part of her husband’s family, taking with her any wealth that her parents accumulated, and leaving her blood relatives with less than they otherwise may have had. Similarly, a boy child is also expected to grow up, to marry, and to have children. However, in marrying, a young man is not regarded to be ‘joining another family’, at least not in the same way that a young woman is, and so the parents’ wealth is seen to remain within the family. In addition, in many societies it is the husband who is traditionally seen to have the role of providing for the well-being of his family, and so it is argued that boys are more suitable guardians of the family’s inheritance.

“As with women’s inheritance rights more generally, the issue of girls’ inheritance rights has become all the more pressing given the current HIV/AIDS pandemic which has ravaged so much of sub-Saharan Africa. HIV/ AIDS has led to an explosion not only in the number of widows, but also in the number of orphaned girls who now find themselves as the sole heads of households. These girls face especially dire circumstances, and many live in extreme poverty with the formidable task of taking care of themselves along with their younger siblings. Lacking personal security, adequate housing, education, and protection from abuse and exploitation, these orphaned girls live in situations in which many of their human rights are being violated on a daily basis. Many girls end up as street children, extremely vulnerable to sexual exploitation. They are often forced into prostitution for their survival.

“According to a recent joint report from UNAIDS, The World Health Organization and the United Nations Division for the Advancement of Women, in countries with high HIV/AIDS prevalence, and in ‘child-headed’ households:

“It is often girls who take on the burden of care and who are forced to seek work outside the home. Their youth, vulnerability and lack of skills means that they are forced to work in marginal sectors such as sex work, domestic and farm labour.”

Source: Excerpt from COHRE’s report *Bringing Equality Home: Promoting and Protecting the Inheritance Rights of Women* (Geneva: COHRE, 2004).

4.5 CHILDREN AND FORCED EVICTIONS

“A shortage of housing stock, high rental costs, an absence of housing finance, and constrained access to land may appear to be adult concerns but they have significant impacts on children.”

— Sheridan Bartlett, International Institute for Environment and Development

“At this very moment there are hundreds of children of landless workers in the rural areas camped under plastic shacks with their families, by the edge of state roads, waiting with their families for the dispossession of unproductive land and facing the constant threat of an imminent forced eviction. The same goes for other hundreds of Quilombola children who live in Quilombo communities¹⁵³ that haven’t been officially recognised yet and therefore can not achieve any sort of land titling that could provide them security of tenure. These Quilombo communities also suffer with the constant threat of forced evictions both from the government and from wealthy farmers. And we can’t forget the children who have been recently settled in rural communities formed due to the agrarian reform and that are still facing the total lack of access to basic fundamental human rights.”

— Eduardo Fernandes, Comissão Pastoral da Terra, State of Pernambuco, Brazil ¹⁵⁴

The international community has reaffirmed that the practice of forced eviction constitutes a gross violation of a broad range of human rights; in particular, the right to adequate housing.¹⁵⁵

Forced evictions are characterised or accompanied by an element of force or coercion. They are usually related to specific decisions, policies or legislation of States, or their failure to intervene to halt evictions by non-State actors. Furthermore, they are often planned, formulated and announced prior to being carried out. In its General Comment No. 4, the UN Committee on Economic, Social and Cultural Rights stated that:

¹⁵³ *Quilombolas*, the inhabitants of *Quilombo* communities, are the descendants of escaped African slaves who were brought to Brazil in the colonial period. Many of those escaped slaves settled on vacant lands and established self-sufficient communities that resisted colonial rule and exploitation. *Quilombo* communities, now estimated to number more than 2 000, exist in almost every state of Brazil. Most *Quilombo* lands have been, and continue to be, occupied and managed collectively; they are indivisible ethnic territories where the communities live, work and express their cultural identities and beliefs. However, most *Quilombo* communities do not hold title to their lands, even though they have occupied them for generations.

¹⁵⁴ Responses to COHRE Children and Housing Rights Questionnaire, received in September 2005 from: Comissão Pastoral da Terra - Pernambuco (CPT/PE), Brazil; Assessoria Técnica Popular e da Rede Nacional de Advogados e Advogadas Populares - Pernambuco (RENAP/PE), Brazil; and Procurador-Geral Adjunto do Município de Porto Alegre, Brazil; on file at COHRE.

¹⁵⁵ UN Commission on Human Rights Resolution 2004/28, ‘Prohibition of forced eviction’, UN Doc. E/CN.4/RES/2004/28, 2004, http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2004-28.doc

*... instances of forced eviction are prima facie incompatible with the requirements of the [International] Covenant [on Economic, Social and Cultural Rights] and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law.*¹⁵⁶

Most forced evictions occur due to discrimination and/or in connection with development projects, urban redevelopment schemes, gentrification, urban beautification, land alienation in both rural and urban areas, and situations of armed conflict and ethnic cleansing or their aftermath. Forced eviction is also related to issues of security of tenure, homelessness and displacement.

Forced evictions are detrimental to all their victims, but they have especially serious implications for children. In a study on 'Urban Children and the Physical Environment', Sheridan Bartlett from the City University of New York and the International Institute for Environment and Development in London found that:

*The worst situation for children is forced displacement or eviction. This can result in economic upheaval and the destruction of social networks, but it is also traumatic for children in its own right.*¹⁵⁷

Lack of security of tenure leaves many millions of slum dwellers around the world vulnerable to forced eviction. Too often, forced evictions are characterised by violence, particularly against women and children, who are the ones most likely to be at home when such an eviction is carried out. As Bartlett's study shows, in response to the violence, panic and confusion that are typical of forced eviction, many children experience recurring nightmares, anxiety and distrust. Bartlett notes that:

*The impacts of eviction for family stability and for children's emotional well-being can be devastating; the experience has been described as comparable to war for children in terms of the developmental consequences. Even when evictions are followed by immediate relocation, the effects on children can be destructive and unsettling.*¹⁵⁸

These findings were confirmed by several organisations that provided information to COHRE. For example, the Philippines organisation Families and Children for Empowerment and Development (FCED) reported that children who had experienced eviction from their homes suffered from feelings of helplessness, powerlessness and loss of hope. Other children were reported to have abandoned the hope of continuing their schooling because they had no alternative but to sleep or stay on the streets or vacant lots at least temporarily, and potentially even for the long term. Forcibly evicted children exhibited psychological trauma and fear of police and demolition crews. Like their parents, they were confused about what to do, where to go and what might lie ahead.¹⁵⁹

¹⁵⁶ UN CESCR, General Comment No. 4 (n. 33 above), para. 18.

¹⁵⁷ S. Bartlett, 'Urban Children and the Physical Environment', paper presented at Children and the City Conference held by Arab Urban Development Institute in Amman, Jordan, on 11-13 Dec. 2002, <http://www.araburban.org/childcity/Papers/English/Sheridan%20Barlett.pdf>. See also: D.T. Wid-yastuti, 'Creating Space for Children: Challenge for Reshaping City Space', paper presented at the 8th International Conference of the Asian Planning Schools Association, in Batu Ferringhi, Penang, Malaysia, on 11-14 Sept. 2005, [http://www.apsa2005.net/FullPapers/PdfFormat/Full%20Paper%20\(A-H\)/Dyah%20Widyastuti.pdf](http://www.apsa2005.net/FullPapers/PdfFormat/Full%20Paper%20(A-H)/Dyah%20Widyastuti.pdf)

¹⁵⁸ Bartlett (n. 157 above).

¹⁵⁹ Responses to COHRE Children and Housing Rights Questionnaire, received in September 2005 from: Families and Children for Empowerment and Development (FCED), Philippines; and Acción por los Niños, Peru; on file at COHRE.

In a study on ‘The Impact of Evictions on Children’ in Manila, Mumbai and Phnom Penh, the Philippines-based Urban Poor Associates (an NGO helping demolition victims in Metro Manila) and the Thailand-based Asian Coalition for Housing Rights emphasised that children are the most vulnerable group during forced eviction.¹⁶⁰ The study found that:

*Eviction implies violence. During the event of a demolition, children are exposed to violence and abuse. It is generally recognized that violence breeds violence. Children seeing their families being attacked can be affected in a many ways.*¹⁶¹

This exposure to violence increases children’s anxiety levels. As a result, some children show a range of negative emotional consequences.¹⁶² Sadly, forced eviction also increases intra-familial stress and rates of child abuse.¹⁶³ Children interviewed by researchers recounted increased incidents of violence within their own homes after a forced eviction had taken place.¹⁶⁴ Thus, forced evictions are not only a focal point for violence, they also breed violence in the lives of children and their families. As a result of losing their home and community, children enter a world of insecurity in which they tend to be even more vulnerable to those who would abuse them.

“In the morning, the police came with a tractor to demolish my house. I managed to take some of our belongings, only the light ones of course, and hide behind the house. When the elders of the community engaged the police in negotiations, I went and gathered up more of our luggage.”

— Poun Radas, a boy from the forcibly evicted Pochentong community
(Phnom Penh, Cambodia)¹⁶⁵

Tragically, reports of children dying during forced eviction are all too common. Another report from the Philippines graphically portrays the disaster of helpless children caught up in the violence:

*Five children lay in unadorned caskets lined up in a row outside the main entrance of Old Samson Road, a narrow street inside the Balintawak Market in Quezon City. The mood was gloomy along the entire stretch of the road where once stood the ramshackle houses of 100 families of market vendors and porters. It was a mournful scene typical of the poorest of the poor in urban Metro Manila whose homes are constantly being demolished.*¹⁶⁶

160 A.M. Dizon and S. Quijano, ‘The Impact of Eviction on Children’ [case studies in Phnom Penh, Manila and Mumbai], Urban Poor Associates (UPA), Asian Coalition for Housing Rights (ACHR) and United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP), May 1997 (also cited in Aban, n. 162 below). *See also:* Response to COHRE Children and Housing Rights Questionnaire, received from Coalition for the Urban Poor (CUP), Bangladesh, August 2005; on file at COHRE.

161 UPA/ACHR (n. 160 above).

162 Ibid.

163 Ibid.

164 Ibid.

165 Ibid.

166 A.P. Aban, ‘The Saga of Children during Forced Evictions’, *Bulatlat*, Philippines alternative weekly magazine, 9 Mar. 2005, <http://www.bulatlat.com/archive/007evictions.htm>

In June 2005, the tragic deaths of 18-month-old Terence Munyaka and two-year-old Charmaine Nyika in Zimbabwe received worldwide attention. They were killed when government bulldozers demolished their homes during the campaign of mass forced evictions known as Operation Murambatsvina ('drive out rubbish').¹⁶⁷ UNICEF estimated that 220 000 Zimbabwean children were unable to attend school because they had lost their homes in this unprecedented campaign; many fell ill because they were exposed to the bitter cold of southern African winter nights.¹⁶⁸

Conferring security of tenure on the households in which children live is a simple act that would help to protect millions of them throughout the world from the trauma of forced eviction. Without the fear of being forcibly evicted, families living in informal communities would be able to invest in their homes and improve the living conditions for their children.

THE IMPACT OF FORCED EVICTION ON CHILDREN

"In Metro Manila, evictions affect, on average, more than 450 families each month. Urban Poor Associates, as part of a collaborative research project, organized a workshop for children whose communities had been demolished, the objective being to document their experience in order to gain a better understanding of the impacts of eviction on children.

"Twenty-one children, aged four to 14, from three evicted communities took part in recollection, drawing and group discussions, describing their old homes and neighbourhoods, the evictions and the changes brought about in their lives. Children as young as four remembered the violence and confusion, the presence of heavily armed police, the bulldozers destroying homes and valued possessions, the teargas fumes, the family members and friends wounded or even killed. They spoke of sleeping rough after the evictions, of becoming separated from family, of being hungry and sick. They mourned the loss of friends, playmates and familiar surroundings, and described the disruption to their families.

"Many of these children showed symptoms of anxiety and disturbance long after the event. Some had recurring nightmares and feelings of panic, others became apathetic and withdrawn. Some were unable or unwilling to remember the eviction, despite the recollections of other children who were their friends and relatives. Many said they were fearful when they saw people in uniform. The general sense of fear among these children was observed to be similar to that among children in situations of armed conflict."

Source: A.M. Dizon and S. Quijano, *Impact of Eviction on Children*, Urban Poor Associates (UPA), Asian Coalition for Housing Rights (ACHR) and United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP), 1997.

167 BBC News, 'Africa Urged to Act over Zimbabwe', 23 June 2005, <http://news.bbc.co.uk/2/hi/africa/4123286.stm>

168 A. Conchiglia, 'Zimbabwe's Political Evictions', *Le Monde Diplomatique* [English edition, article available to subscribers only], Sept. 2005, <http://mondediplo.com/2005/09/13mugabe>

4.6 REFUGEE AND DISPLACED CHILDREN

“We wish refugee children can wake up every day feeling cosy at home, with breakfast cooking, their family around, and their toys.”

— Julia, 12, and Johan, 11, two children from Switzerland expressing their hopes on World Refugee Day¹⁶⁹

Children who, along with their families, lose their homes due to disaster, war, persecution and forced eviction, represent almost half of the world’s displaced population. The United Nations High Commissioner for Refugees (UNHCR) estimates that the number of children who are violently uprooted from their homes and either ‘internally displaced’ within their own countries or forced to flee as refugees to surrounding States may be as high as 25 million — equal to the combined populations of Denmark, Finland, Norway and Sweden.¹⁷⁰ According to UNICEF, in situations of displacement it is children who are the most frequent victims of violence, disease, malnutrition and death.¹⁷¹ Furthermore, as UNICEF reports:

*In the chaos of flight, children may become separated from their parents and families. They are exposed to far greater danger and exploitation, including forced recruitment, abduction, trafficking or sexual exploitation. Displaced children urgently need assistance and protection.*¹⁷²

The UNHCR has similarly acknowledged that:

*When children are cold, hungry and without shelter, they do not develop well and they become ill quickly. If services related to food, water, environmental sanitation, shelter and basic health services are not properly planned and delivered, children are the first to die.*¹⁷³

Refugee and displaced children often live in inadequate housing conditions, with no certainty as to when they will be able to return to their original homes and lands. Like uprooted adults, such children often want nothing more than to return to their original homes and rebuild their lives. Yet they often live in conditions

169 UNHCR News Stories, ‘UNHCR Celebrates 50th Year of Nansen Refugee Award’, 21 June 2004, <http://www.unhcr.org/cgi-bin/texis/vtx/news/open-doc.htm?tbl=NEWS&id=40d6f1e74>

170 UNHCR, ‘Children’ [Cover Story - Page II], <http://www.unhcr.org/children/cover02.html>

171 UNICEF, ‘UNICEF in emergencies: displaced children’, http://www.unicef.org/emerg/index_displacedchildren.html

172 Ibid.

173 UNHCR, ‘Refugee Children: Guidelines on Protection and Care’, Geneva, 1994, <http://www.unhcr.org/cgi-bin/texis/vtx/protect/openssl.pdf?tbl=PROTECTION&id=3b84c6c67>

of insecurity for years, spending their childhood in official refugee camps, or in squatter settlements where displaced persons have set up temporary shelter. As UNICEF has noted:

When families and communities abandon their homes, taking what few possessions they can carry, they may plan to return at the earliest opportunity. But 'temporary' displacement can extend well over a decade. In such cases, children may spend their entire childhood in camps. Other long-term effects of displacement are an increased risk of poverty resulting from the loss of land, inheritance or other legal rights; incarceration or discrimination; and an inability to resume schooling.

Under international human rights standards, refugee and displaced children are entitled to special protection. For example, the UN Guiding Principles on Internal Displacement specifically recognise that:

*Children and unaccompanied minors ... shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.*¹⁷⁴

Furthermore, all refugees and displaced persons, including refugee and displaced children, are entitled to housing and property restitution. The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (also known as the 'Pinheiro Principles') make special provision for children in this regard, and stipulate that States should ensure that separated and unaccompanied children are able to participate and are fully represented in the restitution claims process, and that any decision in relation to the restitution claim of separated and unaccompanied children is in compliance with the overarching principle of the 'best interests of the child'.¹⁷⁵ The Pinheiro Principles further provide that States and other involved international and national actors should ensure that children are adequately represented and included in restitution decision-making processes, and have the appropriate means and information to participate effectively. The needs of vulnerable individuals including separated and unaccompanied children should be given particular attention.¹⁷⁶

174 UN Guiding Principles on Internal Displacement, contained in UN Doc. E/CN.4/1998/53/Add.2, 11 Feb. 1998, <http://www.unhcr.ch/html/menu2/7/b/principles.htm>

175 UN Principles on Housing and Property Restitution for Refugees and Displaced Persons, annex to UN Doc. E/CN.4/Sub.2/2005/17, 28 June 2005, <http://domino.un.org/unispal.NSF/o/577d69b243fd3c0485257075006698e6?OpenDocument>. See also, COHRE, 'The Pinheiro Principles' <http://www.cohre.org/downloads/principles.pdf>

176 Ibid.

INTERNALLY DISPLACED CHILDREN IN COLOMBIA

“Colombia’s children are perhaps the most seriously affected by the internal armed conflict in that country and comprise the largest segment of the internally displaced population — about 45 percent of Colombia’s displaced are under the age of 14. According to the United Nations Children’s Fund (UNICEF), over one million children have been displaced from their homes in Colombia over the past 15 years. Other estimates put the number at closer to two million.

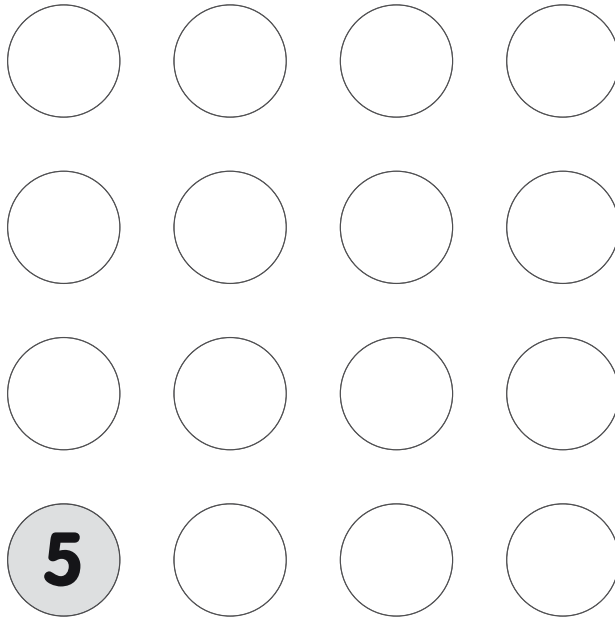
“In Colombia, 24 percent of the population living below the poverty line is under 10 years old and almost 14 percent of children less than five years of age suffer from chronic malnutrition. These problems become even more acute during displacement. In addition to enduring chronic poverty, displaced children often suffer psychological traumas due to violence and displacement. Displaced children often witness horrific acts of violence — the same violence that leads to the displacement of their families and communities. All too often, children themselves become the victims of violence; displaced children are particularly vulnerable to mistreatment, sexual exploitation and forced recruitment by armed groups.

“Additionally, displaced children lose the stability of a home in which to live, and the loss of their home often entails other losses, including the loss of education, of medical care and of adequate food. Indeed, according to the Women’s Commission for Refugee Women and Children, many displaced children in Colombia suffer from malnutrition. Human Rights Watch has reported that many displaced children suffer serious health effects, including chronic diarrhoea, dehydration and hepatitis, because only minimal and irregular health care is available to them. Médecins Sans Frontières surveyed the health consequences of displacement in Barrio Nelson Mandela, an informal settlement outside of Cartagena (which COHRE also visited, in October 2003). Research findings showed that only seven percent of the children had been healthy during the two weeks prior to that survey, and that 57 percent of childhood deaths which occurred in that community between August and November 2000 could have been prevented if only the children had had access to appropriate medical care.

“With respect to education, the office of Colombia’s Human Rights Ombudsperson estimates that only 15 percent of displaced children attend school. About 95 percent of displaced children are rejected from secondary schools because they and their family-members lack money for fees, books and uniforms. In the vast slums surrounding Bogotá, displaced children often cannot obtain a primary education at a regular public school. Instead, they must rely on informal ‘community schools’ organised by the communities themselves, sometimes with the assistance of charities and other non-governmental organisations. In other areas, displaced children lack access even to these informal institutions and are growing up without any schooling at all.”

Source: COHRE publication *Defending the Housing Rights of Displaced Persons in Colombia* (Geneva: COHRE, 2004), <http://www.cohre.org/downloads/FFM-Colombia.pdf>

A girl living in the Calle de los Niños informal settlement outside Cartagena that currently houses thousands of internally displaced persons. About 45 percent of Colombia's displaced are under the age of 14.



Indivisibility of rights

“[T]he Committee believes that the implementation of the right to housing of children clearly illustrates the universality, indivisibility and interdependence of human rights In fact, the dynamic relationship existing between the right of children to adequate housing and many other children’s rights, including their economic, social and cultural rights, points out very clearly how essential the concepts of indivisibility and interdependence are to the full enjoyment by all children of their human rights.”

— UN Committee on the Rights of the Child¹⁷⁷

177 Statement by the Committee on the Rights of the Child to the second UN Conference on Human Settlements (Habitat II) (n. 21 above).

As the examples in Section 4 have shown, when their housing rights are violated, children are all too often plunged into a downward spiral of insecurity and vulnerability. Indeed, violations of children’s housing rights usually entail violations of other fundamental rights of children, including, in particular, their rights (1) to life; (2) to the highest attainable standard of health; (3) to be free from exploitation; (4) to education; and (5) to be free from torture and other cruel, inhuman or degrading treatment or punishment — to list but five. Of course, these connected rights violations only compound the difficulties faced by the affected children. The following subsections (5.1 – 5.5) discuss in detail the inter-connections between children’s housing rights and these five other fundamental rights, which should be ensured and protected for all children, everywhere.

5.1 THE RIGHT TO LIFE

The principle that all children have an inherent right to life is recognised in Article 6 of the Convention on the Rights of the Child (‘the Convention’). Under the Convention, States Parties are obligated to ensure – to the maximum extent possible – the survival and development of the child.

For children, adequate housing can literally be a matter of life and death. In several countries, large numbers of street children and homeless children have been murdered in campaigns of what is euphemistically referred to as ‘social cleansing’. They would not have faced this mortal peril if they had enjoyed a stable home environment that provided for their basic needs. There are other risks: homeless children, who are exposed day and night to the natural elements, are more susceptible to illness and disease that threatens to cut short their young lives. Sometimes, saving children’s lives is a very simple endeavour that requires little more than ensuring that the children have a safe, adequate place to call home.

However, simply having a roof over their heads may not be enough to ensure that children survive to adulthood. As explained in Subsection 2.2, the right to adequate housing implies access to services, materials, facilities and infrastructure; including two basic services – water and sanitation – that are essential to every child’s survival. Yet hundreds of millions of children around the world still lack both. Research clearly shows that improved access to potable water and a sewerage connection significantly reduces child mortality rates, and the World Bank has noted that greater State involvement in water services management can be a decisive factor in saving young lives in this way.¹⁷⁸ It is in this context that the link between the right to adequate housing and the right to life becomes evident, especially for young children. According to UNICEF, every year, diarrhoeal diseases – frequently caused by dirty water and poor sanitation – claim the lives of 1.6 million children under the age of five, and seriously damage the health and development of millions more.¹⁷⁹

Clearly, housing poverty, lack of adequate water, lack of adequate sanitation, and child mortality are all intimately connected. As part of its global campaign to achieve ‘Millennium Development Goal 4 – Reduce child mortality’, the United Nations has reported that in the year 2003 there were nearly 11 million deaths of children under five, and that the world’s poorest countries continue to bear a disproportionate share of these largely preventable deaths. In 2003, around 4.9 million ‘under-five deaths’ (45 percent of the global total

178 A. Shi, ‘How Access to Urban Potable Water and Sewerage Connections Affects Child Mortality’, World Bank, Finance, Development Research Group, [http://wbi1n0018.worldbank.org/Research/workpapers.nsf/f3f369922a1fe12c852567e50052bf69/deb83a3c607e359c8525686600521ddd/\\$FILE/wps2274.ppt.pdf](http://wbi1n0018.worldbank.org/Research/workpapers.nsf/f3f369922a1fe12c852567e50052bf69/deb83a3c607e359c8525686600521ddd/$FILE/wps2274.ppt.pdf)

179 UNICEF Fact Sheet, ‘Water, environment and sanitation: Common water and sanitation-related diseases: Diarrhoea’, http://www.unicef.org/wes/index_wes_related.html

for that year) occurred in sub-Saharan Africa, where more than 17 percent of children died before their fifth birthday.¹⁸⁰ As the United Nations has observed:

*Within poor countries, it is the poorest families that fare worst. The poorer people are, the more likely their children will die in childhood.*¹⁸¹

The obstacles to improving the life expectancy of children in poor countries are formidable, but they are not insurmountable. Having appropriate government policies in place can make a major difference in terms of combating child mortality. Implementing appropriate housing policy that recognises the right of children to adequate housing can be an effective means of protecting children’s health and lives.

5.2 THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

*“Being poor is in itself a health hazard; worse, however, is being urban and poor. Much worse is being poor, urban, and a child. But worst of all is being a street child in an urban environment.”*¹⁸²

— Ximena de la Barra, senior urban advisor, UNICEF

Under Article 24(1) of the UN Convention on the Rights of the Child, States Parties recognise “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health”. This right is strongly linked to the right to adequate housing, and violations of the latter will have direct implications for children’s enjoyment of the former. Indeed, the UN Committee on Economic, Social and Cultural Rights (CESCR) has stated that housing is one of the underlying determinants of health and that the core obligations imposed on States in relation to the right to the highest attainable standard of health include the duty to ensure access to basic shelter and housing.¹⁸³ Arguably, this linkage of the two rights is nowhere more evident than for children. Where children do not enjoy their right to adequate housing, there is every possibility that their right to the highest attainable standard of health is also violated.¹⁸⁴

In this context, the ‘habitability’ aspect of the right to adequate housing is particularly important (see Sub-section 2.2, above, on the seven key elements of the right to adequate housing, as defined by the UN

180 UN Statistics Division (n. 13 above).

181 Id., ‘Progress towards the Millennium Development Goals, 1990-2004: Goal 4 – Reduce child mortality’.

182 X. de la Barra, ‘Poverty: The Main Cause of Ill Health in Urban Children’, *Health Education & Behavior*, Vol. 25, Issue 1 (Feb 1998).

183 UN CESCR, General Comment No. 14 (2000), ‘The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)’, UN Doc. E/C.12/2000/4, 11 Aug 2000, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument)

184 Ibid.

CESCR). Indoor air pollution caused by, among other activities, cooking and heating with biomass fuels (such as wood, dung and agricultural waste) is one of the major contributors to the global burden of disease.¹⁸⁵ Children who live in housing with inadequate ventilation and crowded unsanitary conditions have a very high risk of being exposed to such pollution. Every year, indoor air pollution is responsible for 1.6 million deaths due to pneumonia, chronic respiratory disease and lung cancer.¹⁸⁶ Globally, 56 percent of all deaths that are attributable to indoor air pollution occur in children under five years of age. Pneumonia and other acute lower respiratory infections represent the single most important cause of death in the under-five age group.¹⁸⁷

Even in the more affluent countries of the Global North, children's enjoyment of the right to the highest attainable standard of health is often threatened by structural and environmental hazards posed by inadequate housing, which may result in 'residential injuries' and/or poisoning. In this context, the location of housing is extremely important. For example, there is evidence of a greater risk of learning disability among children who live close to historically significant sources of air pollution, including toxicants such as lead and other heavy metals, solvents, and other chemicals.¹⁸⁸

Adequate housing is also linked to the mental health of children; studies suggest that housing quality correlates positively with psychological well-being.¹⁸⁹ There is evidence that children residing in high-rise dwellings and other overcrowded spaces are more likely to display behavioural problems than those living in other forms of housing.¹⁹⁰

In general, street children and homeless children are more vulnerable than other children to infectious diseases such as malaria and tuberculosis, as well as sexually transmitted diseases including HIV/AIDS. Such children also suffer from extremely problematic health complications due to insufficient and/or inadequate food, lack of access to medical care, exposure to the elements and violence, substance abuse and risk-taking behaviours.¹⁹¹

According to a report by the International Labour Organization on the links between HIV/AIDS and child labour in Zambia, child labourers – many of whom are street children and/or orphans – often complain of chronic pain and disease symptoms, including aches in various parts of the body, fatigue, injuries, coughing, and stomach pains and diarrhoea.¹⁹²

Because the health and general well-being of children has proven to depend to such a large extent on their living conditions, ensuring that all children are adequately housed is crucial to guaranteeing their right to the highest attainable standard of health.

185 World Health Organization, 'Indoor air pollution', <http://www.who.int/indoorair/en/>

186 Id., 'Fact sheet No. 292: Indoor Air Pollution and Health', <http://www.who.int/mediacentre/factsheets/fs292/en/index.html>

187 Ibid.

188 F. Margai and N. Henry, 'A Community-Based Assessment of Learning Disabilities Using Environmental and Contextual Risk Factors', *Social Science and Medicine*, Vol. 56, Issue 6 (Mar 2003), pp. 1073-1085, http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=12593879&dopt=Abstract

189 G. Evans, N.M. Wells & A. Moch, 'Housing and Mental Health: A Review of the Evidence and a Methodological and Conceptual Critique', *Journal of Social Issues*, Vol. 59, Issue 3 (July 2003), p. 475, <http://www.blackwell-synergy.com/links/doi/10.1111/1540-4560.00074/abs/>

190 Ibid.

191 World Health Organization, Department of Mental Health and Substance Dependence (n. 104 above).

192 International Labour Organization (ILO), *HIV/AIDS and child labour in Zambia: A rapid assessment on the case of the Lusaka, Copperbelt and Eastern Provinces* (Geneva-Lusaka: ILO, 2002), http://www.ilo.org/iloroot/docstore/ipcc/prod/eng/2003_hiv5_zambia_en.pdf

5.3 THE RIGHT TO BE FREE FROM EXPLOITATION

“[E]very possible economic and social measure should be taken to reduce infant mortality and to eradicate malnutrition among children and to prevent them from being subjected to acts of violence and cruel and inhuman treatment or from being exploited by means of forced labour or prostitution, or by their use in the illicit trafficking of narcotic drugs, or by any other means.”

— UN Human Rights Committee, General Comment No. 17¹⁹³

According to Article 32(1) of the UN Convention on the Rights of the Child:

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.

Furthermore, according to Article 34 of the Convention:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

Vulnerable children, including refugee and displaced children and children living and/or working on the streets, are subjected to many forms of exploitation and abuse. The UN estimates that, worldwide, annually, 1.2 million children are trafficked and 246 million used as child labour.¹⁹⁴ At any given time, several million children – mostly girls – are engaged in sex work.¹⁹⁵

In attempting to understand why child exploitation is so prevalent, it is important to consider the grim reality in which millions of children live. Many of the victims of criminal activities such as child trafficking, for

193 UN HRC, General Comment No. 17 (1989): Rights of the child (Art. 24 [of the International Covenant on Civil and Political Rights]) (adopted at the Committee’s 35th session, on 07 Apr. 89), UN Doc. HRI\GEN\1\Rev.1, p. 23, para. 3, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ccof1f8c391478b7c12563ed004b35e3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ccof1f8c391478b7c12563ed004b35e3?Opendocument)

194 UNICEF UK, ‘End Child Exploitation’ campaign, http://www.unicef.org.uk/campaigns/campaign_detail.asp?campaign=16

195 Id., ‘Commercial sexual exploitation’, http://www.unicef.org.uk/campaigns/campaign_sub_pages.asp?page=5 The Optional Protocol to the CRC on the sale of children, child prostitution and child pornography obligates States Parties to “adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices” (Art. 9(1)). This Optional Protocol was *adopted* on 25 May 2000 and *entered into force* on 18 Jan. 2002.

example, come from poor and deprived households or backgrounds. Economic poverty, of which housing poverty is a key aspect, makes children much more vulnerable to exploitation at the hands of unscrupulous adults who are not averse to using and even abusing them in pursuit of material and monetary gain. In a ‘rapid assessment’ report on the links between HIV/AIDS and child labour in Zambia (see Subsection 5.2 above), the International Labour Organization (ILO) studied the lives of some 306 children engaged in occupations ranging from street and market vending to quarrying, stone-breaking, household work (including fetching water, cutting grass, cooking, dishwashing, babysitting, and sweeping the house), cooking in markets, cleaning fish in markets, agricultural work, digging wells, carpentry, picking up bottles at bars and pubs, and commercial sexual services. Almost all of these children came from poor homes, and many of them were also orphans. The ILO concluded that “poverty and HIV/AIDS are mutually reinforcing, and together they create fertile conditions for child labour.”¹⁹⁶

Children living in slums often fall prey to traffickers who, with false promises of money and a better life, lure them into begging, street hawking, unskilled labour and commercial sex. As UNICEF has noted: “Poverty and marginalization of women and children are among the root causes of trafficking”.¹⁹⁷ In order to effectively combat such exploitation and abuse, States should ensure that each child has a safe, adequate place to call home. Doing so – making the most basic necessities of life accessible to all – would make a tremendous contribution towards assuring every child’s economic, physical and psychological security.

5.4 THE RIGHT TO EDUCATION

Education is a fundamental right for all children, guaranteed by Articles 28 and 29 of the Convention on the Rights of the Child. Nonetheless, in the developing world, 130 million children of school age have no access to basic education — a number that is equivalent to about 20 percent of all the world’s children. To some people, the link between a child’s right to adequate housing and his or her right to education may not be readily apparent. However, the reality is that children who do not have a secure home find it very difficult to attend and stay in school. Street children and homeless children, in particular, rarely go to school; instead, they are forced to scrape a living doing menial tasks in order to survive from one day to the next. In the United States, for example, homeless children encounter a range of obstacles to accessing the public school system, and even if they do manage to attend school, their education is frequently disrupted as a result of their insecure housing situation. As the Homeless Children’s Education Fund has noted:

*... most homeless parents cannot afford sneakers, backpacks, and school supplies. Children often do not have immunizations. Buses may not pick up children at shelters. Too often, there is simply no adult advocating for a child’s right and need to attend school. Such circumstances have far-reaching effects on children’s life-long potential.*¹⁹⁸

Millions of slum children around the world also have no access to education. In the slums of India, for example, only about 50 percent of all the children go to school. For girls, the number is closer to 20 per-

¹⁹⁶ ILO (n. 192 above).

¹⁹⁷ UNICEF, ‘Fact Sheet: Trafficking’, <http://www.unicef.org/protection/trafficking.pdf>

¹⁹⁸ Homeless Children’s Education Fund, ‘Awareness: Do You Know ...’, <http://www.homelessfund.org/awareness/awareness.html>

cent.¹⁹⁹ Again, this is partly because many poor children have to work so that they and their families can make ends meet — a reality that stems from poverty, including housing poverty. In many cases, education is effectively denied to slum children simply because their parents or guardians cannot afford basic commodities such as pencils, books and uniforms. For huge numbers of slum children, there is simply no school close enough, or the schools that are nearby are so sub-standard that they do not enjoy going there and learning.

5.5 THE RIGHT TO BE FREE FROM TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Under Article 37(a) of the Convention on the Rights of the Child, States Parties commit themselves to ensuring that:

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Despite these laudable intentions, it is well documented that street children and homeless children have been – and continue to be – victims of torture and ill-treatment in many countries, including Brazil, Bulgaria, Colombia, Guatemala, India and Kenya. Clearly, violations of such children’s housing rights render them susceptible to other grave violations of their human rights. For them, the distinction between violations of civil and political rights on the one hand, and violations of economic, social and cultural rights on the other hand, is of no practical meaning. Housing rights violations can open the door to all manner of human rights abuse.

As described in Subsection 4.1 above, street children and homeless children in some countries are liable to be physically abused or even murdered outright by police and vigilante groups. Too often, street children and homeless children are treated as ‘social ills’ or as criminals rather than as minors deserving of care and protection.²⁰⁰ In recent years, the World Organisation Against Torture (Organisation Mondiale Contre la Torture - OMCT) has issued urgent actions on the torture – including rape and/or killing – of street children in Ethiopia,²⁰¹ Guatemala,²⁰² Honduras,²⁰³ Paraguay,²⁰⁴ and Spain.²⁰⁵

Children who suffer forced eviction may also become victims of cruel, inhuman or degrading treatment or punishment.

199 Lotus Outreach, ‘Lotus Outreach and Non Formal Education Centres in India: 2003 Update’, http://www.lotusoutreach.org/program_manager_report.html

200 Human Rights Watch (n. 84 above).

201 World Organisation Against Torture (OMCT, <http://www.omct.org/>), ‘Ethiopia: Cruel and inhumane actions against street children in Addis Ababa’, 8 May 2001.

202 Id., ‘Guatemala: asesinato, aparentemente premeditado, de un niño de la calle en ciudad de Guatemala’, 7 Nov. 2002; ‘Rape of two street girls by two uniformed members of the Guatemalan National Civil Police’, 12 Feb. 2001.

203 Id., ‘Honduras: rape and murder of two teenage street girls in Tegucigalpa’, 28 May 2001.

204 Id., ‘Paraguay: torture of street children’, 24 May 2002.

205 Id., ‘Spain: detention and alleged torture and ill-treatment of several street children of Moroccan origin’, 2 Nov. 2000; ‘Spain: Ceuta: street children at risk of expulsion’, 7 Mar. 2001.

Article 16(1) of the UN Convention Against Torture states that:

*Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*²⁰⁶

In applying Article 16, the UN Committee Against Torture has interpreted the Convention as protecting persons, including children, from forced evictions. In the case of *Hajrizi Dzemajl et al. v. Yugoslavia*,²⁰⁷ for example, the Committee held that the forced eviction and total destruction of a Roma community in Serbia and Montenegro violated the Convention, even though the eviction was not perpetrated by public officials. In fact, those responsible for the forced eviction and destruction of the Bozova Glavica settlement in the city of Danilovgrad were private residents who lived nearby. In 2001, in its Concluding Observations on Israel, the Committee stated that Israel's policies of housing demolition may amount to cruel, inhuman or degrading treatment or punishment in violations of Article 16 of the Convention.²⁰⁸ Recognising forced eviction as a violation of the child's right to be free from torture or other cruel, inhuman or degrading treatment or punishment can help to protect children from the trauma of being forcibly uprooted and/or seeing their homes destroyed.

206 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA res. 39/46, annex, 39 UN GAOR Supp. (No. 51), p. 197, UN Doc. A/39/51 (1984), entered into force 26 June 1987, http://www.unhchr.ch/html/menu3/b/h_cat39.htm

207 UN Committee Against Torture (2002), Communication No. 161/2000: Yugoslavia, UN Doc. CAT/C/29/D/161/2000 (2 Dec. 2002), [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/b5238fc275369719c1256c95002fca4f?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/b5238fc275369719c1256c95002fca4f?Opendocument)

208 Id. (2001), Conclusions and Recommendations of the Committee against Torture: Israel, UN Doc. CAT/C/XXVII/Concl.5, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.XXVII.Concl.5.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.XXVII.Concl.5.En?Opendocument)

INDIVISIBILITY OF CHILDREN'S RIGHTS IN POST-TSUNAMI SRI LANKA

Sri Lanka witnessed its worst natural disaster in recorded history when the tsunami of 26 December 2004 hit its coastal areas, killing between 30 000 and 40 000 people, displacing well over 800 000 others and destroying or damaging most of the infrastructure along the coastline. An estimated 12 000 children were killed or went missing; about 200 000 were displaced, losing their homes and belongings within a space of a few minutes. Many of them lost family members too. According to Sri Lanka's National Child Protection Authority and the Centre for Environmental Justice, over three thousand children lost one of their parents, while more than eight hundred were orphaned.²⁰⁹

The Government of Sri Lanka estimates that nearly 90 000 houses were destroyed by the tsunami, making shelter a major post-tsunami issue. One and a half years after the tsunami, many children are still living in welfare camps. Others have been moved to transitional shelters and are awaiting permanent housing. These shelters have often been reported to be below the minimum accepted standards. Many children and their families are still waiting to be allocated land for permanent housing; many others are still awaiting aid to rebuild their houses.

Some 200 schools were heavily damaged by the tsunami. For this reason, and because so many children and their families lost their homes, primary and secondary education was severely disrupted. In the aftermath of the tsunami, most of the schools along the stricken coastline were used to shelter victims, which led to a considerable delay in re-opening them. Even after re-opening, there was hardly any normalcy as the students had lost their books, uniforms and – in many cases – their schoolmates and teachers.

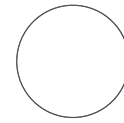
Housing insecurity has also contributed to another problem of particular concern in the northern and eastern parts of the affected area: the recruitment of child soldiers by the Liberation Tigers of Tamil Eelam (LTTE or 'Tamil Tigers'). UNICEF has reported 40 verified cases of child recruits since the tsunami and has highlighted the forcible recruitment of children from relief camps. In a January 2005 press release, Human Rights Watch noted that the LTTE was seeking to replace forces lost to the tsunami with child recruits:

"The Tamil Tigers are preying on the most vulnerable by taking advantage of children who have been orphaned or displaced by the tsunami. Every effort must be made to stop this unconscionable recruiting from families who have already suffered so much. ... As the LTTE seeks to rebuild its forces after the tsunami, children are at enormous risk. Children have always been targeted [for forced recruitment], but children who have lost their homes or families from the tsunami now are even more susceptible to LTTE recruitment".

Source: Partially based on Human Rights Watch press release, 'Sri Lanka: Child Tsunami Victims Recruited by Tamil Tigers', 14 Jan. 2005, <http://www.hrw.org/english/docs/2005/01/14/slanka10016.htm>

209 Centre for National Operations (citing National Child Protection Authority), 'Policy Framework and Guidelines for The Protection and Care of Children Affected By The Tsunami Disaster' (Jan. 2005), <http://www.childprotection.gov.lk/pdfs/TsPolicyFramework.PDF>; Centre for Environmental Justice (citing UNICEF), 'Article No. 8: Tsunami Swept Away ...' (Jan. 2005), <http://www.ejustice.lk/article-tsunami-tsunamisweptaway.htm>

What housing rights mean for children



TESTIMONY OF CHILDREN LIVING IN THE SLUMS OF ACCRA, GHANA

In 2005, a COHRE fact-finding team went to the Ghanaian capital to study the situation of children's housing rights in its slums; in particular, Agbogbloshie Market and its surroundings, not far from the city centre. One of West Africa's largest slums, housing about 30 000 people, this peri-urban community has informal market stalls and dwellings used by traders and their families. Most of them come from the Northern Region of Ghana and sell yam, cereals, vegetables, etc. Some also reportedly traffic in children from the north; especially young girls, who are put to work as household helps or as porters on the market. Agbogbloshie Market is characterised by improvised, inadequate structures, a lack of amenities and infrastructure, unsanitary conditions, open drainage, dangerous electrical connections, violence and crime.

The COHRE study documented that 50 percent of the children in this community live in single-room dwellings, and that 66 percent of the children live in severely overcrowded conditions. As 76 percent of the children have no access to any kind of toilet or latrine, they have to relieve themselves in the open air, a situation most of them appeared to hate. Nearly all the children interviewed knew little to nothing about children's rights. The following quotes illustrate how most children feel about living in Agbogbloshie:

"I do not want to continue living in this community because the water is not good; there is no pipe. People have been stealing."

"I do not want to continue living here because houses get burnt regularly; there is stealing here and a lot of trouble."

"I do not want to continue living here because they steal, fight and it is dangerous to live here."

"I do not want to continue living here because they dump refuse here."

"I do not want to continue living here because it is dirty, flies are all around and the rubbish chokes the gutter."

Source: Based on *A Brief Study on the Situation of Children's Rights to Housing in Two Selected Urban Communities in Accra*, COHRE, Aug. 2005.

If children’s housing rights are ever to be fully realised, it is critically important that they be approached and interpreted from the vantage point of children themselves — taking their needs, interests and concerns to heart. When it comes to housing, children have special needs that should be fully integrated into the housing-rights framework so that their healthy physical, emotional and social development can be effectively stimulated and protected. Furthermore, it is important to bear in mind that children in each successive age-group and stage of development also have their own special needs: housing that is adequate for a teenager may not be adequate for a toddler, and the converse may also be true.

What do housing rights actually mean for children? This section offers a preliminary exploration of this vital question.

6.1 APPLYING THE ‘BEST INTERESTS OF THE CHILD’ PRINCIPLE TO THE RIGHT TO ADEQUATE HOUSING

As noted in Subsection 2.1, above, the UN Convention on the Rights of the Child requires that “in all [State] actions concerning children ... the best interests of the child shall be a primary consideration”.²¹⁰ States Parties to the Convention should therefore apply this principle in all matters that are related to housing policy, including the development and improvement of human settlements. This subsection starts by examining the foundations of the right to adequate housing in international human rights law; namely, the standards articulated in this area by the International Covenant on Economic, Social and Cultural Rights (see Section 2, above, for discussion of the content of the right to adequate housing as it applies to children). These standards are essential to understanding the right to adequate housing. Looking to these standards with a view to upholding ‘the best interests of the child’, we can elaborate a conceptualisation of housing rights that operates explicitly with the needs of children in mind.

What follows, then, is a child-friendly interpretation of the seven elements of adequate housing: (1) legal security of tenure; (2) availability of services, materials, facilities and infrastructure; (3) affordability; (4) habitability; (5) accessibility; (6) location; and (7) cultural adequacy.

6.1.1 Legal security of tenure

In order to uphold the right of the child to adequate housing, States are obligated at all times to protect children – through legal and other means – from forced eviction and any other harassment that threatens their housing situation. This implies that States should effectively *respect and protect* children’s housing rights, as discussed in Section 3 above, thereby providing the greatest possible security of tenure to children and their families. States should also ensure that adequate legal and other measures are in place and properly implemented to prevent evictions without appropriate safeguards (as defined in relevant international law) from taking place and, if appropriate, to punish persons or private-sector bodies who perpetrate such evictions. States should review all relevant legislation and policies to ensure that they are fully compatible with the obligations that stem from the right of the child to adequate housing, and should repeal or amend any legislation or policies that are inconsistent with that right.

210 Convention on the Rights of the Child (see n. 18 above).

In order to effectively prevent forced eviction, States should also consult with threatened or affected communities, including their children, with a view to finding feasible alternatives to eviction. States should ensure, prior to carrying out any eviction, that all feasible alternatives are explored so that use of force is avoided, or at least minimised. This is especially critical from the standpoint of children, who generally suffer physical and psychological trauma as a result of violent forced evictions. In exceptional cases where evictions are deemed to be justified under international human rights standards and are unavoidable, every effort should be made not to disrupt children's schooling and to ensure that the distressing effects of eviction on children are minimised. This may mean, for example, that trained counsellors be made available to the affected children before, during and after any eviction takes place. Furthermore, evictions should not take place in particularly bad weather or at night, nor when children are home alone, nor at a time when children's schooling would be disrupted.²¹¹

In all cases of eviction, legal remedies should exist and be made freely accessible to the affected children, including – whenever possible – through the provision of quality, free legal aid.²¹² States should also provide trained counsellors who are able to represent the children's interests during legal proceedings.

Evictions should never result in children being rendered homeless or vulnerable to the violation of other human rights.²¹³ This implies that States should take meaningful action to ensure that all children threatened with eviction be afforded alternative adequate housing.

6.1.2 Availability of services, materials, facilities and infrastructure

Access to water and sanitation are two basic components of adequate housing as defined by international human rights standards. Perhaps more so than for any other population group, these components of adequacy are vital for children. Lack of safe drinking water and sanitation are the primary causes of diarrhoeal disease, which kills over 3 900 children a day.²¹⁴ The international community and individual States have the resources, capacity and knowledge required to address this crisis. Unfortunately, however, accountability and political will are in short supply. Because the provision of water and sanitation is critical to ensuring child survival, in domestic housing policies States should give due priority to making these services available to all children under their jurisdiction. To this end, COHRE recommends that States should:

- Provide targeted subsidies for water and sanitation provision to poor households, including those with or headed by children;
- Establish complaints mechanisms that are accessible to children and clear regulations for water and sanitation service providers, including clear penalties for non-compliance;
- Implement procedural and substantive protections against disconnections to households with children and ensure that children, in particular, always have access to at least essential quantities of water;
- Ensure that children participate in decision-making with respect to determining the type of services that they receive, and have access to appropriate information in this regard;

211 UN CESCR, General Comment No. 7 (see n. 37 above).

212 Ibid.

213 Ibid.

214 UNICEF Canada, 'Global Child Survival and Health: A 50-year progress report from UNICEF Canada: Fact Sheet – Diarrhoeal Disease', http://www.unicef.ca/press/50years/assets/FS/FS_Diarrhoeal_Disease.pdf?PHPSESSID=97bcf6e497d8a9c2cd5f5d799c8f6ed (see also, n. 178 above).

- Upgrade slum areas through supporting/providing water and sanitation services that are accessible to children;
- Invest in services that benefit vulnerable children who have no basic access to water and sanitation;
- Develop a concrete plan to expand access to water and sanitation to all children, with concrete targets and timelines.²¹⁵

6.1.3 Affordability

Wherever housing is not affordable, children inevitably suffer. According to international human rights standards, housing is considered affordable when the personal or household financial costs associated with that housing are at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.²¹⁶ To some people, the impact of unaffordable housing on children may seem somewhat obscure: the fact is that although children may not pay the bills, they nonetheless bear some of the real costs. For example, in order to meet exorbitant housing costs, families may sacrifice a child's education or healthcare. In cases where families cannot afford housing at all, they and their children are most likely to become homeless, facing all the disastrous consequences of that predicament.

To help alleviate the burden and consequences of unaffordable housing, States should establish housing subsidies for those who are unable to afford housing by their own means, including child-headed households. States and financial institutions should also provide forms and levels of housing finance that adequately reflect the housing needs and economic realities of the poor.

6.1.4 Habitability

For housing to be habitable, it must provide enough space for children and protect them from the natural elements so as to safeguard their health and wellbeing.²¹⁷ Inhabitability and unsafe housing conditions pose particular dangers to children, who may, for example, suffer burns, choking, suffocation, drowning, falls, poisoning and even death as a result. The structural hazards and building materials that can cause harm to children include open sewers and lead paint (lead intoxication can severely damage the human brain and nervous system, especially in children). Such hazards should therefore be prohibited by law and remedied in practice. Housing habitability standards should also take into account the various needs of each successive age group of children, including infant, toddler, pre-school, school-going and teens. In this respect, national housing standards and building codes should be developed with careful consideration for child safety. Children living in inadequate housing and those who suffer negative health consequences due to their poor housing conditions should receive priority attention from States, with a view to improving their housing situation.

In order to make the home a truly safe place for children, they should also be effectively protected from violence within the home and the community. States should show due diligence in this regard, taking reasonable steps to prevent violence against, and abuse of, children.

215 See: COHRE, 'Clean Water for the Poor: Making the Human Right to Water a Reality', <http://www.cohre.org/water/>

216 UN CESCR, General Comment No. 4 (see n. 33 above).

217 Ibid.

6.1.5 Accessibility

Housing should be accessible to all children, including the disabled, the displaced and other vulnerable groups.²¹⁸ Disabled children face particular challenges with respect to housing, and its design is often inappropriate, with unreachable water taps, unusable sanitation facilities and no mobility aids such as wheelchair ramps. Landlords are often reluctant to make the fairly simple changes that are necessary to reasonably accommodate a disabled child.

Under Article 23 of the UN Convention on the Rights of the Child, States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions that ensure or at least facilitate his or her dignity, self-reliance and active participation in the household and community. To fully comply with this obligation, States should make adequate housing accessible to disabled children, recognising their special needs and interests. To help ensure the right to adequate housing for disabled children, States should:

- Engage in no act or practice with the intent or effect of discriminating against children on the basis of disability, particularly in relation to housing policies and programmes;
- Give due priority and attention to inadequately housed disabled children who may face discrimination not only due to their physical or mental disability, but also due to their gender and race/ethnicity;
- Guarantee that disabled children can participate effectively in the elaboration and implementation of housing policies and programmes;
- Ensure that the development and implementation of housing-related legislation reflect the needs of disabled children;
- Take all appropriate measures to ensure that children with disabilities can freely enjoy and exercise their right to adequate housing and can participate fully and equally within society;
- Develop special programmes to ensure that poor children with disabilities have access to adequate housing, water and sanitation.

States should prioritise the immediate needs of refugee and displaced children and their families. Wherever needed, States should establish emergency housing programmes to address the needs of such people as best as possible, and invite and facilitate international cooperation and aid in providing adequate emergency shelter, including water and sanitation. These emergency programmes should be complimented by a comprehensive long-term plan to give refugee and displaced children, and their families, access to adequate, permanent housing.

6.1.6 Location

Housing should be located in an area that is safe for children and does not expose them to environmental hazards and pollution including agricultural pesticides, groundwater contaminants, garbage dumps, chemical residue, and air toxins from manufacturing facilities.²¹⁹ According to the Children's Environmental Health Initiative, there are several factors that make young children especially vulnerable to environmen-

²¹⁸ Ibid.

²¹⁹ Ibid.

tal hazards, including the rapidity with which their nervous and immune systems develop. Moreover, compared to adults:

*... children exhibit high levels of hand-to-mouth activity ..., spend an increased percentage of time near the ground, and eat more fruits and vegetables for their size — all of which enhance exposure to toxicants. Once exposed to hazardous contaminants, children are much more likely to express toxic effects. For example, relative to their smaller size, children’s respiratory, absorption, and metabolic rates are higher than adults. Furthermore, rapid bone development in young children enhances the potential for chemical interference in bone metabolism.*²²⁰

For these reasons, when determining what levels of environmental toxicity are unsafe for human occupancy in general, it is important that States clearly determine the levels that are unsafe for children in particular.

For children, an essential aspect of housing adequacy is being able to attend local day-care centres and/or schools. Children should also have access to social play spaces such as playgrounds, sports facilities and other communal recreation areas.

6.1.7 Cultural adequacy

Housing should also allow children to participate in cultural activities and allow for cultural self-expression and community life.²²¹ In this regard, children from all cultural backgrounds should be able to participate meaningfully in all housing policy decisions that affect them, such that their particular cultural values can be reflected and upheld.

6.2 EVERY CHILD’S RIGHT TO NON-DISCRIMINATION

UNICEF has noted that the child’s right to non-discrimination means that “all children have the same right to develop their potential — all children, in all situations, all of the time, everywhere.”²²² Unfortunately, just like adults, children also face entrenched patterns of discrimination based on their race or ethnicity, their gender and sexual orientation, their language, their religion, their national or social origin, their economic status, their disability status, etc. This is certainly true of the housing sphere, where many children suffer from segregation and are ghettoised as a result of prejudice.

For example, the UN Committee on the Elimination of Racial Discrimination (which oversees the implementation of, and compliance with, the International Convention on the Elimination of all forms of Racial Discrimination) has expressed concern over the housing situation in Slovakia, noting “the isolation of the Roma

220 Children’s Environmental Health Initiative, ‘Children’s Environmental Health: Special Vulnerabilities’, http://www.env.duke.edu/cehi/health/spec_vul.htm

221 UN CESCR, General Comment No. 4 (see n. 33 above).

222 UNICEF, ‘Why we do it: Children have rights’, http://www.unicef.org/why/why_rights.html

community in ghetto-like neighbourhoods and their critical situation in respect of housing conditions”.²²³ In this case, the Committee recommended that the Government of Slovakia:

*... effectively implement policies and projects aimed at avoiding segregation of Roma communities in housing and involve Roma communities and associations as partners in housing construction, rehabilitation and maintenance projects. Furthermore, the Committee encourages the State Party to take all possible measures to further improve housing conditions for Roma, taking also into account that for families, **and particularly children**, living in a proper environment is an essential prerequisite for access to education and employment on an equal footing.*²²⁴ [Emphasis added.]

To effectively combat discrimination against specific groups of children in the area of housing, international law requires that States should develop integrated and appropriate housing policies that are aimed at improving the situation of marginalised children. In particular, States should prevent, prohibit and, when needed, repeal any policy or initiative with the intent or effect of discriminating against certain groups of children with respect to housing. Marginalised children should also be provided with the means to participate in the process of conceiving, designing, implementing and monitoring policies and programmes aimed at improving their housing situation. To combat the phenomenon of ‘environmental racism’,²²⁵ States should take special measures to combat housing segregation on grounds of race or ethnicity. In particular, States should invest in the development of safe locations for housing, taking steps to ensure that marginalised children and their families have affordable housing alternatives. These steps would help to ensure that children do not live in or near hazardous areas as a result of racism and social exclusion.

This framework for ensuring non-discrimination for children in the area of housing should not be seen as a radical departure from existing State commitments. Indeed, during the United Nations Special Session on Children, the nations of the world committed themselves to making every effort to eliminate discrimination against children, recognising that: “Discrimination gives rise to a self-perpetuating cycle of social and economic exclusion and undermines children’s ability to develop to the fullest”.²²⁶ The UN Committee on the Rights of the Child has also held that “whatever their economic circumstances, States are required to undertake all possible measures towards the realisation of the rights of the child, paying special attention to the most disadvantaged groups”.²²⁷

6.3 MAKING THE LINK BETWEEN UPHOLDING HOUSING RIGHTS AND ENSURING CHILD PROTECTION

As emphasised in Subsection 2.1 above and as reiterated at various points in this report, for children, the right to adequate housing is fundamental to their right to survival and development. Children’s right to adequate housing may be less prominent than other children’s rights, such as the right to education or the right to freedom from exploitation; nonetheless, for millions of children around the world today housing insecurity lies at

223 UN Committee on the Elimination of Racial Discrimination, ‘Conclusions and recommendations of the Committee on the Elimination of Racial Discrimination, Slovakia’, UN Doc. CERD/C/65/CO/7, 10 Dec. 2004, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/5f45d8181be0ef1c1256efb003261fb?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/5f45d8181be0ef1c1256efb003261fb?Opendocument), para. 10.

224 Ibid.

225 For a definition of this term, see n. 48 above.

226 UN General Assembly Resolution, ‘A World Fit for Children’ (n. 11 above), para. 20. See App. 3 of this report.

227 UN Committee on the Rights of the Child, General Comment No. 5 (n. 25 above).

the heart of their vulnerability. The principle of indivisibility of human rights is reflected in the fact that when housing rights are not effectively protected for children, they almost inevitably suffer from other human rights violations. As stated in Subsection 2.1 above, when children's housing rights are violated, other children's rights tend to be either violated at the same time or jeopardised as a result. As this report has illustrated, these inter-related rights cover virtually the entire range of children's human rights, including the rights:

- to non-discrimination;
- to life;
- to be free from arbitrary or unlawful interference with privacy, family and home;
- to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse;
- to special protection and assistance in cases where a child is temporarily or permanently deprived of his or her family environment;
- to the highest attainable standard of health;
- to benefit from social security;
- to a standard of living adequate for a child's physical, mental, spiritual, moral and social development;
- to education;
- to engage in play and recreational activities;
- to be protected from economic exploitation;
- to be protected from all forms of sexual exploitation and sexual abuse; and
- to be protected against torture or other cruel, inhuman or degrading treatment or punishment.

In creating effective child-centred policy with the dual aims of defending the 'best interests of the child' and ensuring child protection, it is clearly essential to uphold children's housing rights. As this report has shown, the consequences of violating these rights are lasting and profound — yet the positive consequences of protecting children's housing rights could be equally so. When children have a safe place to live they are far less likely to turn to the streets in search of 'a better life' than those whose home situation is undermining. When children and their families are afforded security of tenure, the children are safeguarded from the trauma of forced eviction and the resulting long-term psychological effects. When children have access to safe drinking water and sanitation, they are far less likely to die in early childhood from easily preventable diseases like diarrhoea. When a child's housing is habitable, he or she is less likely to be exposed to pollutants and other health hazards that jeopardise healthy development. When housing is constructed in an adequate location, children have a place to play, to study and to grow.

COHRE is convinced that any effective child-protection strategy must incorporate measures to ensure the right of the child to adequate housing. By adopting national strategies on the rights of the child, many States have given meaning to their undertaking to uphold such rights. All States, if they genuinely seek to improve the lives of children, should give due priority to vulnerable children. As part of this commitment, States should fully integrate children's housing rights into their national plans of action on children. This would not only further the realisation of children's housing rights, it would also go a long way towards protecting their other rights as well.

Sisters living in an informal settlement constructed under a bridge in Manila, the Philippines. These girls, and their entire community, were forcibly evicted from their homes shortly after this picture was taken.



7				

Conclusions

“The tragedy of the child begins when that habitat becomes vulnerable. Premature rural-to-urban migration, armed conflict, forced eviction and natural disasters are some of the more dramatic and devastating threats to the child’s environment, leaving far too many children homeless and exposed, without physical or psychological shelter. More chronic and far more prevalent, especially in the slums of our cities, are threats to the child’s well-being posed by inadequate housing, poor sanitation, unsafe drinking water, diseases like HIV/AIDS, crime and insecurity.”

— Anna Kajumulo Tibaijuka, Executive Director of UN-HABITAT²²⁸

Children’s housing rights are well-defined under international human rights law, and are protected under several international and regional human rights treaties. As this report has illustrated, individual States and the international community as a whole have obligations to ensure that children’s housing rights are

228 UN-HABITAT, ‘Statement by Mrs. Anna Kajumulo Tibaijuka, Executive Director, on the occasion of the Special Session of the General Assembly on Children’, New York, 10 May 2002, <http://www.un.org/ga/children/habitatE.htm>

respected, protected and fulfilled, without discrimination on any grounds. As the United Nations Committee on the Rights of the Child has declared:

*Whatever their economic circumstances, States are required to undertake all possible measures towards the realisation of the rights of the child, paying special attention to the most disadvantaged groups.*²²⁹

The Convention on the Rights of the Child is the world's most widely ratified human rights treaty to date, yet much work remains to be done if children's human rights are to be transformed into reality. As this report has shown, millions of children around the world continue to face housing rights violations on a daily basis. Street children and homeless children suffer a wide range of violations of their human rights, including – self-evidently – their right to adequate housing. Almost inevitably, this deprivation of basic rights exposes such vulnerable children to exploitation and abuse. Millions more children throughout the world live in deplorable housing conditions that render them vulnerable to disease and even death. Orphans and children living in child-headed households often experience housing rights violations due to their poverty and lack of parental care. Forced evictions have terrible consequences for all those who are subjected to them, but they have especially serious implications for children, including increased likelihood of depression, anxiety and difficulty concentrating on school work. Refugee and displaced children often live in inadequate housing conditions, with no certainty as to when – or, indeed, whether – they will be able to return to their original homes and lands. In such situations of displacement, it is children who most frequently fall victim to violence, disease, malnutrition and death. Girl children often face unique difficulties due to gender-based discrimination in the area of housing, and when their housing rights are violated they are far more likely to be subjected to sexual violence than boys are.

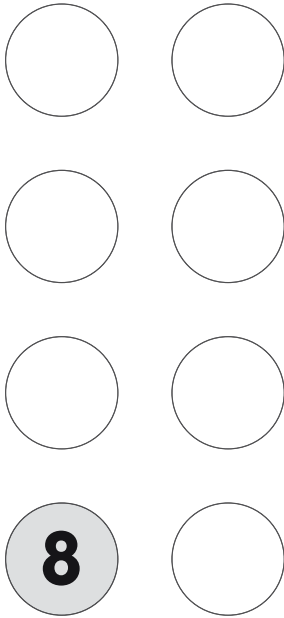
Addressing chronic and acute housing rights violations suffered by millions of children around the world is crucial to ensuring their long term security and well-being. As this report has also highlighted, children's right to adequate housing is intimately connected to a range of other rights, including their rights to life, to the highest attainable standard of health, to education, to freedom from exploitation, and to freedom from torture and other cruel, inhuman or degrading treatment or punishment. Children without a stable, habitable place to live and call home are far more vulnerable to all kinds of human rights violations than children who do have an adequate dwelling place. The latter are better able to study and do well in school, to play, to develop a sense of security, and to have a healthy childhood in every sense. For the children of this world, the right to adequate housing cannot be seen as a mere extravagance, attainable only by a privileged minority; rather, it is fundamental to the survival and healthy development of children as a whole. Violations of children's housing rights are often at the root of childhood vulnerability and exposure to violence. Seen in this light, housing rights are not peripheral to the full realisation of children's rights – they are central to it.

Undeniably, the problems are myriad and formidable, yet they can be tackled. The United Nations has proclaimed that childhood is entitled to special care and assistance, and that children living in exceptionally difficult conditions are entitled to special consideration. Experience has shown that, given the political will,

²²⁹ UN Committee on the Rights of the Child, General Comment No. 5 (n. 25 above), para. 8.

violations of children's housing rights can be effectively prevented and remedied. Relatively small and inexpensive measures can be taken to upgrade the living conditions of children in inadequate housing, and successful programmes can be put in place to provide homes for homeless children.

In the following section, COHRE makes ten key recommendations to States, all of which can be implemented in the short term, to help improve the housing rights situation for children. We also make recommendations to the United Nations Committee on the Rights of the Child, aimed at raising the profile of children's housing rights at the international level.



A boy who works and lives on the streets of Kigali, Rwanda. The combined effects of the 1994 genocide, rural poverty and the HIV/AIDS pandemic have driven several thousand children onto the streets of urban centres.

Recommendations

8.1 TO STATES

1. Ratify key international human rights treaties

States that have not yet done so should, as a matter of priority, ratify both the United Nations Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights.

2. Develop and implement a national strategy on children's housing rights

States should integrate a national strategy on children's housing rights into their National Plans of Action on Children and domestic legislation. Children should be enabled to participate effectively in the creation of this strategy, so that it may adequately reflect their special needs and interests. In addition, this strategy should integrate the standards articulated in General Comment No. 4 on the right to adequate housing and General Comment No. 7 on forced eviction, both issued by the United Nations Committee on Economic, Social and Cultural Rights. Any national strategy on children's housing rights should also incorporate stand-

ards relating to the ‘best interests of the child’, in accordance with the Convention on the Rights of the Child and other relevant international human rights standards.

In this regard, States should also develop specific policies and practices that are effective in protecting children and youths from all possible forms of violence and/or abuse at the hands of State officials, including police and security forces. In particular, such policies and practices should be based on the principle of ‘zero tolerance’ of violence against, and/or abuse of, children and youths who are especially vulnerable because they are orphaned, homeless, live on the streets, or live in informal settlements. States should also develop and implement special protocols on caring for children during eviction proceedings.

3. Provide security of tenure to children and their families

States should provide the greatest possible security of tenure to children and their families. States should immediately halt the practice of forced eviction. In exceptional cases when evictions are deemed to be justified under international human rights standards and are unavoidable, States should make every effort not to disrupt children’s schooling and to minimise the distressing effects of eviction on them.

4. Incorporate a child-friendly perspective into existing housing policies

States should incorporate a child-friendly perspective into their existing national policies and programmes on housing and urban development. These should reflect an understanding of children’s housing rights, and should be elaborated in consultation with children themselves, as well as with national child advocacy organisations.

5. Prioritise vulnerable children in all matters related to housing

In all matters related to housing, States should prioritise particularly vulnerable groups of children, including street children and homeless children, children living in poverty, orphans and children living in child-headed households, refugee and displaced children, as well as children belonging to other marginalised or disadvantaged groups.

6. Ensure that every child has access to water and sanitation

States should, as a matter of priority, ensure that all children have access to safe drinking water and sanitation, and should provide subsidies for water and sanitation provision targeted at households in need, including those with or headed by children. States should also develop a concrete plan to expand access to water and sanitation to all children, with concrete objectives and timelines.

7. Provide housing assistance and support to disadvantaged children

States should provide material assistance and support to disadvantaged children and their families who are unable to access adequate housing by their own means. In this regard, States should establish housing subsidies for those unable to afford adequate housing, including children. Children living in inadequate housing and those who suffer negative health consequences due to their poor housing conditions should receive priority attention in this respect, in order to improve their housing situation in the short term. For this purpose, States should allocate appropriate and sufficient resources.

8. Prioritise child safety and health in all matters related to housing

States should develop national housing standards and building codes that take full account of child safety and health. In this regard, States should consider the special needs and interests of especially vulnerable children, which means that, among other measures, adequate and appropriate housing should be made accessible to disabled children.

9. Eradicate housing discrimination for all children

States should develop integrated and appropriate housing policies and programmes aimed at improving the situation of marginalised children. In this regard, children who experience housing discrimination, segregation and ghettoisation should be given priority attention. Marginalised children should also be provided with the means to participate in the process of conceiving, designing, implementing and monitoring such policies and programmes.

10. Report on the situation of children’s housing rights

In their periodic reports to the United Nations Committee on the Rights of the Child, States should accurately represent the situation of children’s housing rights in their territory. They should also consider requesting technical advice and assistance for initiatives aimed at improving the situation of homeless and inadequately housed children, in accordance with Article 45 of the Convention.

8.2 TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

1. Give special attention to the housing rights of children

In examining States Parties’ reports, the Committee on the Rights of the Child should give special attention to the issue of the housing rights of children and their families. They should also consider developing appropriate indicators to assess children’s housing and living conditions, in accordance with Sub-Commission resolution 1994/8 (see Appendix 2).²³⁰

2. Raise the profile of children’s housing rights at the United Nations

The Committee on the Rights of the Child should call on the UN Human Rights Council and its special mechanisms, as relevant within their mandates, to pay particular attention to children’s housing rights.

3. Develop a general comment on children’s housing rights

The Committee on the Rights of the Child should adopt a General Comment on the Housing Rights of Children, elaborating the nature of States Parties’ obligations in this regard. The General Comment should be elaborated with the participation of children around the world who have experienced, or are threatened by, housing rights violations.

²³⁰ UN Sub-Commission on the Promotion and Protection of Human Rights (formerly Sub-Commission on Prevention of Discrimination and Protection of Minorities), resolution 1994/8 on ‘Children and the right to adequate housing’ (n. 14 above), see App. 2 of this report.

Appendix 1

UN COMMISSION ON HUMAN RIGHTS RESOLUTION ON 'THE PLIGHT OF STREET CHILDREN'

United Nations Commission on Human Rights Resolution 1994/93

The plight of street children

The Commission on Human Rights,

Recalling its resolution 1993/81 of 10 March 1993 and General Assembly resolution 48/136 of 20 December 1993,

Welcoming the special attention given to the rights of children in the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular in part I, paragraph 21,

Recalling the Convention on the Rights of the Child as a major contribution to the protection of the rights of all children, including street children,

Reaffirming that children are a particularly vulnerable group in society whose rights require special protection, and that children living under especially difficult circumstances, such as street children, deserve special attention, protection and assistance from their families and communities and as part of national efforts and international cooperation,

Recognizing that all children have the right to health, shelter and education, to an adequate standard of living and to freedom from violence and harassment,

Deeply concerned about the growing number of street children worldwide and the squalid conditions in which these children are often forced to live,

Profoundly concerned that the killing of and violence against street children threaten the most fundamental right of all, the right to life,

Alarmed at continuing serious offences of this nature against street children,

Recognizing the duty and responsibility of Governments to investigate all cases of offences against street children and to punish offenders,

Recognizing also that legislation *per se* is not enough to prevent violations of human rights, including those of street children, and that Governments should implement their laws and complement legislative measures with effective action, *inter alia*, in the fields of law enforcement and in the administration of justice, and in social, educational and public health programmes,

Welcoming the efforts made by some Governments to take effective action to address the question of street children,

Welcoming also the publicity given to and the increased awareness of the plight of street children, and the achievements of non-governmental organizations in promoting their rights and in providing practical assistance to improve their situation, and expressing its appreciation of their continued efforts,

Welcoming further the valuable work of the United Nations Children's Fund and its National Committees in reducing the suffering of street children,

Noting with appreciation the important work carried out in this field by the United Nations, in particular the Committee on the Rights of the Child, the Special Rapporteur on the sale of children, child prostitution and child pornography and the United Nations International Drug Control Programme, as well as the International Criminal Police Organization,

Bearing in mind the diverse causes of the emergence and marginalization of street children, including poverty, underdevelopment, rural-to-urban migration, unemployment, broken families, intolerance, exploitation and war, and that such causes are often aggravated and their solution made more difficult by serious socio-economic difficulties,

Bearing in mind that the Vienna Declaration and Programme of Action urged all States, with the support of international cooperation, to address the acute problem of children in especially difficult circumstances and that national and international mechanisms and programmes should be strengthened for the defence and protection of children, including street children,

Recognizing that the prevention and solution of certain aspects of this problem could be facilitated in the context of economic and social development,

1. *Expresses* grave concern at the continued growth in the number of incidents worldwide and at reports of street children being involved in and affected by serious crime, drug abuse, violence and prostitution;
2. *Urges* Governments to continue actively to seek comprehensive solutions to tackle the problems of street children and to take measures to restore their full participation in society, and to provide, *inter alia*, adequate nutrition, shelter, health care and education;
3. *Strongly urges* all Governments to guarantee the respect for fundamental human rights, particularly the right to life, and to take urgent measures to prevent the killing of street children and to combat torture and violence against street children;
4. *Emphasizes* that strict compliance with the provisions of the Convention on the Rights of the Child, which is obligatory for States parties, would constitute a significant step towards solving the problems of street children, and calls upon all States that have not done so to become parties to the Convention as a matter of priority;

5. *Calls on* the international community to support, through effective international cooperation, the efforts of States to improve the situation of street children and encourages States parties to the Convention on the Rights of the Child, in preparing their reports to the Committee on the Rights of the Child, to bear this problem in mind and to consider requesting technical advice and assistance for initiatives aimed at improving the situation of street children, in accordance with article 45 of the Convention;
6. *Commends* the Committee on the Rights of the Child for the attention it pays in its monitoring activities to the situation of children who, to survive, are forced to live and work in the streets, and reiterates its invitation to the Committee to consider the possibility of a general comment on street children;
7. *Recommends* that the Committee on the Rights of the Child and other relevant treaty monitoring bodies give attention to this growing problem when examining reports from States parties;
8. *Invites* Governments, United Nations bodies and organizations and intergovernmental and non-governmental organizations to cooperate with each other to ensure greater awareness and more effective action to solve the problem of street children by, among other measures, initiating and supporting development projects that can have a positive impact on the situation of street children;
9. *Calls on* special rapporteurs, special representatives and working groups of the Commission on Human Rights and of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, within their mandates, to pay particular attention to the plight of street children;
10. *Decides* to consider the question further at its fifty-first session under the agenda item entitled “Rights of the child”.

66th meeting

9 March 1994

[Adopted without a vote. See chap. XXII. E/CN.4/1994/132

Appendix 2

UN SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES RESOLUTION ON 'CHILDREN AND THE RIGHT TO ADEQUATE HOUSING'

Sub-Commission on Prevention of Discrimination and Protection of Minorities

(currently known as the UN Sub-Commission on the Promotion and Protection of Human Rights)

Resolution 1994/8

Children and the right to adequate housing

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the recognition and legal foundations of the right to adequate housing in, *inter alia*, the Universal Declaration of Human Rights (art. 25, para. 1), the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (e) (iii)) and the Convention on the Rights of the Child (art. 27, para. 3),

Recalling also resolution 1992/10 of 21 February 1992 of the Commission on Human Rights, in which it took note with particular interest of General Comment No. 4 (1991) on the right to adequate housing (E/1992/23, annex III) adopted by the Committee on Economic, Social and Cultural Rights at its sixth session, resolution 1993/77 of 10 March 1993 entitled "Forced evictions" and resolution 1994/14 of 25 February 1994 entitled "Promoting the realization of the right to adequate housing", adopted without a vote by the Commission on Human Rights at its forty-ninth and fiftieth sessions respectively,

Recalling further its resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992 and 1993/41 of 26 August 1993, entitled "Forced evictions",

Conscious that one of the areas where the indivisibility and interdependence of human rights and of the rights of children become most apparent is with respect to the existence of widespread poverty leading to inadequate housing and living conditions,

Aware of the worsening situation around the world of the living conditions of children and of the fact that tens of millions of children are being forced to live in the streets, in slums and on pavements, and that this number is growing daily,

Concerned at the especially adverse living conditions of children belonging to vulnerable groups, including indigenous people and ethnic, racial, religious and other minorities,

Deeply concerned at the particularly adverse effects of forced evictions on the health, well-being and development of children,

Stressing in general the adverse impact of poverty, and in particular of inadequate living and housing conditions, on the realization of the basic rights of children, including the right to food, to health, to education and the right to birth registration,

Stressing also that the various competent supervisory mechanisms, including the Committee on the Rights of the Child, as well as the specialized agencies of the United Nations system, need to focus more on the impact of inadequate living and housing conditions on the realization of the economic, social and cultural rights of children and their families in all parts of the world,

1. *Reminds* Governments to comply to the maximum extent of available resources with all existing obligations concerning the legally recognized rights of children to an adequate standard of living and the continuous improvement of living and housing conditions;
2. *Recognizes* the importance in this regard of international cooperation and the need for cooperation between Governments, non-governmental organizations and international agencies;
3. *Recommends* that the Special Rapporteur on the promotion of the realization of the right to adequate housing devote special attention in his final report, to be submitted in 1995, on the impact that violations of the right to adequate housing have on the realization of the full range of the rights of the child;
4. *Also recommends* that all relevant special rapporteurs, in particular the Special Rapporteurs on extreme poverty and on population transfer, take into account the question of the housing rights of children and their families in the preparation of their reports;
5. *Requests* the Committee on the Rights of the Child to give special attention to the issue of the housing rights of children and their families when examining States parties' reports and to consider developing appropriate indicators to assess the state of children's housing and living conditions;
6. *Also requests* the Committee on the Rights of the Child to consider devoting a day of general discussion to the impact of poverty and inadequate living and housing conditions on the economic, social and cultural rights of children;
7. *Invites* the United Nations Children's Fund to consider including, in its publications *The State of the World's Children* and *The Progress of Nations*, a separate section on the state of children's housing rights and to support actively local, national and international initiatives aimed at improving children's living and housing conditions;
8. *Requests* the specialized agencies and organizations and bodies of the United Nations system to devote special attention to the issue of children and housing rights in their policies, programmes and publications, and to develop and promote the application of reliable indicators to assess the state of children's housing rights;
9. *Urges* the international financial institutions, in particular the World Bank and the International Monetary Fund, to take fully into account the human rights implications for children of their policies, in particular structural adjustment programmes and the funding of large-scale development projects;
10. *Requests* Governments, the specialized agencies and organizations and bodies of the United Nations system to develop effective strategies for rapidly improving the housing and living conditions of children throughout the world, in full consultation with and with the full participation of children themselves, their representatives and community-based non-governmental and other relevant groups;
11. *Decides* to review the matter of children and the right to adequate housing at its forty-seventh session, under the relevant agenda item.

27th meeting
19 August 1994

Appendix 3

UN GENERAL ASSEMBLY RESOLUTION ON ‘A WORLD FIT FOR CHILDREN’

UNITED NATIONS

General Assembly
Distr. GENERAL
A/RES/S-27/2
11 October 2

Twenty-seventh special session
Agenda items 8 and 9

Resolution adopted by the General Assembly S-27/2. A world fit for children

The General Assembly

Adopts the document entitled “A world fit for children” annexed to the present resolution.

*6th plenary meeting
10 May 2002*

Annex

I. DECLARATION

1. Eleven years ago, at the World Summit for Children, world leaders made a joint commitment and issued an urgent, universal appeal to give every child a better future.^[1]
2. Since then, much progress has been made, as documented in the report of the Secretary-General entitled “We the Children”.^[2] Millions of young lives have been saved, more children than ever are in school, more children are actively involved in decisions concerning their lives and important treaties have been concluded to protect children. However, these achievements and gains have been uneven, and many obstacles remain, particularly in developing countries. A brighter future for all children has proved elusive, and overall gains have fallen short of national obligations and international commitments.
3. We, the heads of State and Government and representatives of States participating in the special session of the General Assembly on children, reaffirming our commitment to the purposes and principles enshrined in the Charter of the United Nations, are determined to seize this historic opportunity to

[1] See A/45/625.

[2] A/S-27/3.

change the world for and with children. Accordingly, we reaffirm our commitment to complete the unfinished agenda of the World Summit for Children and to address other emerging issues vital to the achievement of the longer-term goals and objectives endorsed at recent major United Nations summits and conferences, in particular the United Nations Millennium Declaration,^[3] through national action and international cooperation.

4. We reaffirm our obligation to take action to promote and protect the rights of each child – every human being below the age of 18 years, including adolescents. We are determined to respect the dignity and to secure the well-being of all children. We acknowledge that the Convention on the Rights of the Child,^[4] the most universally embraced human rights treaty in history, and the Optional Protocols thereto,^[5] contain a comprehensive set of international legal standards for the protection and well-being of children. We also recognize the importance of other international instruments relevant for children.
5. We stress our commitment to create a world fit for children, in which sustainable human development, taking into account the best interests of the child, is founded on principles of democracy, equality, non-discrimination, peace and social justice and the universality, indivisibility, interdependence and interrelatedness of all human rights, including the right to development.
6. We recognize and support parents and families or, as the case may be, legal guardians as the primary caretakers of children, and we will strengthen their capacity to provide optimum care, nurturing and protection.
7. We hereby call upon all members of society to join us in a global movement that will help to build a world fit for children by upholding our commitment to the following principles and objectives:
 1. **Put children first.** In all actions related to children, the best interests of the child shall be a primary consideration.
 2. **Eradicate poverty: invest in children.** We reaffirm our vow to break the cycle of poverty within a single generation, united in the conviction that investments in children and the realization of their rights are among the most effective ways to eradicate poverty. Immediate action must be taken to eliminate the worst forms of child labour.
 3. **Leave no child behind.** Each girl and boy is born free and equal in dignity and rights; therefore, all forms of discrimination affecting children must end.
 4. **Care for every child.** Children must get the best possible start in life. Their survival, protection, growth and development in good health and with proper nutrition are the essential foundation of human development. We will make concerted efforts to fight infectious diseases, tackle major causes of malnutrition and nurture children in a safe environment that enables them to be physically healthy, mentally alert, emotionally secure, socially competent and able to learn.
 5. **Educate every child.** All girls and boys must have access to and complete primary education that is free, compulsory and of good quality as a cornerstone of an inclusive basic education. Gender disparities in primary and secondary education must be eliminated.
 6. **Protect children from harm and exploitation.** Children must be protected against any acts of violence, abuse, exploitation and discrimination, as well as all forms of terrorism and hostage-taking.

[3] See resolution 55/2.

[4] Resolution 44/25, annex.

[5] Resolution 54/263, annexes I and II.

7. **Protect children from war.** Children must be protected from the horrors of armed conflict. Children under foreign occupation must also be protected, in accordance with the provisions of international humanitarian law.
 8. **Combat HIV/AIDS.** Children and their families must be protected from the devastating impact of the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).
 9. **Listen to children and ensure their participation.** Children and adolescents are resourceful citizens capable of helping to build a better future for all. We must respect their right to express themselves and to participate in all matters affecting them, in accordance with their age and maturity.
 10. **Protect the Earth for children.** We must safeguard our natural environment, with its diversity of life, its beauty and its resources, all of which enhance the quality of life, for present and future generations. We will give every assistance to protect children and minimize the impact of natural disasters and environmental degradation on them.
8. We recognize that the implementation of the present Declaration and the Plan of Action requires not only renewed political will but also the mobilization and allocation of additional resources at both the national and international levels, taking into account the urgency and gravity of the special needs of children.
 9. In line with these principles and objectives, we adopt the Plan of Action contained in section III below, confident that together we will build a world in which all girls and boys can enjoy childhood — a time of play and learning, in which they are loved, respected and cherished, their rights are promoted and protected, without discrimination of any kind, in which their safety and well-being are paramount and in which they can develop in health, peace and dignity.

II. REVIEW OF PROGRESS AND LESSONS LEARNED

10. The World Declaration and the Plan of Action of the World Summit for Children^[6] are among the most rigorously monitored and implemented international commitments of the 1990s. Annual reviews were held at the national level and progress reports presented to the General Assembly. A mid-decade review^[7] and an extensive global end-decade review were conducted. The latter included high-level regional meetings in Beijing, Berlin, Cairo, Kathmandu and Kingston, which reviewed progress, ensured follow-up to the Summit and other major conferences, promoted renewed commitment to the achievement of the goals of the Summit and guided actions for the future. Complementing efforts by Governments, a wide range of actors participated in the reviews, including children, young people's organizations, academic institutions, religious groups, civil society organizations, parliamentarians, the media, United Nations agencies, donors and major national and international non-governmental organizations.
11. As documented in the end-decade review of the Secretary-General on follow-up to the World Summit for Children, the 1990s was a decade of great promises and modest achievements for the world's children. On the positive side, the Summit and the entry into force of the Convention on the Rights of the Child helped to accord political priority to children. A record 191 countries ratified, acceded to or signed the Convention. Some 155 countries prepared national programmes of action to implement

[6] A/45/625, annex.

[7] A/51/256.

the Summit goals. Regional commitments were made. International legal provisions and mechanisms strengthened the protection of children. Pursuit of the Summit goals has led to many tangible results for children: this year, 3 million fewer children will die than a decade ago; polio has been brought to the brink of eradication; and, through salt iodization, 90 million newborns are protected every year from a significant loss of learning ability.

12. Yet much more needs to be done. The resources that were promised at the Summit at both the national and international levels have yet to materialize fully. Critical challenges remain: more than 10 million children die each year, although most of those deaths could be prevented; 100 million children are still out of school, 60 per cent of them girls; 150 million children suffer from malnutrition; and HIV/AIDS is spreading with catastrophic speed. There is persistent poverty, exclusion and discrimination, and inadequate investment in social services. Also, debt burdens, excessive military spending, inconsistent with national security requirements, armed conflict, foreign occupation, hostage-taking and all forms of terrorism, as well as the lack of efficiency in the use of resources, among other factors, can constrain national efforts to combat poverty and to ensure the well-being of children. The childhood of millions continues to be devastated by hazardous and exploitative labour, the sale and trafficking of children, including adolescents, and other forms of abuse, neglect, exploitation and violence.
13. The experience of the past decade has confirmed that the needs and rights of children must be a priority in all development efforts. There are many key lessons: change is possible – and children’s rights are an effective rallying point; policies must address both the immediate factors affecting or excluding groups of children and the wider and deeper causes of inadequate protection and rights violations; targeted interventions that achieve rapid successes need to be pursued, with due attention to sustainability and participatory processes; and efforts should build on children’s own resilience and strength. Multisectoral programmes focusing on early childhood and support to families, especially in high-risk conditions, merit special support because they provide lasting benefits for child growth, development and protection.

III. PLAN OF ACTION

A. Creating a world fit for children

14. A world fit for children is one in which all children get the best possible start in life and have access to a quality basic education, including primary education that is compulsory and available free to all, and in which all children, including adolescents, have ample opportunity to develop their individual capacities in a safe and supportive environment. We will promote the physical, psychological, spiritual, social, emotional, cognitive and cultural development of children as a matter of national and global priority.
15. The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. The primary responsibility for the protection, upbringing and development of children rests with the family. All institutions of society should respect children’s rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of the family exist.

16. We also recognize that a considerable number of children live without parental support, such as orphans, children living on the street, internally displaced and refugee children, children affected by trafficking and sexual and economic exploitation and children who are incarcerated. Special measures should be taken to support such children and the institutions, facilities and services that care for them, and to build and strengthen children's own abilities to protect themselves.
17. We are determined to promote access by parents, families, legal guardians, caregivers and children themselves to a full range of information and services to promote child survival, development, protection and participation.
18. Chronic poverty remains the single biggest obstacle to meeting the needs, protecting and promoting the rights of children. It must be tackled on all fronts, from the provision of basic social services to the creation of employment opportunities, from the availability of microcredit to investment in infrastructure, and from debt relief to fair trade practices. Children are hardest hit by poverty because it strikes at the very roots of their potential for development — their growing bodies and minds. Eradication of poverty and the reduction of disparities must therefore be a key objective of development efforts. The goals and strategies agreed upon at recent major United Nations conferences and their follow-ups, in particular the Millennium Summit, provide a helpful international framework for national strategies for poverty reduction to fulfil and protect the rights and promote the well-being of children.
19. We recognize that globalization and interdependence are opening new opportunities through trade, investment and capital flows and advances in technology, including information technology, for the growth of the world economy, development and the improvement of living standards around the world. At the same time, there remain serious challenges, including serious financial crises, insecurity, poverty, exclusion and inequality within and among societies. Considerable obstacles to further integration and full participation in the global economy remain for developing countries, in particular the least developed countries, as well as for some countries with economies in transition. Unless the benefits of social and economic development are extended to all countries, a growing number of people in all countries and even entire regions will remain marginalized from the global economy. We must act now in order to overcome those obstacles affecting peoples and countries and to realize the full potential of opportunities presented for the benefit of all, in particular children. We are committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system. Investment in, *inter alia*, education and training will assist in enabling children to partake of the benefits of the breakthroughs in information and communication technologies. Globalization offers opportunities and challenges. The developing countries and countries with economies in transition face special difficulties in responding to those challenges and opportunities. Globalization should be fully inclusive and equitable, and there is a strong need for policies and measures at the national and international levels, formulated and implemented with the full and effective participation of developing countries and countries with economies in transition to help them to respond effectively to those challenges and opportunities, giving high priority to achieving progress for children.
20. Discrimination gives rise to a self-perpetuating cycle of social and economic exclusion and undermines children's ability to develop to the fullest. We will make every effort to eliminate discrimination against children, whether rooted in the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

21. We will take all measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms, including equal access to health, education and recreational services, by children with disabilities and children with special needs, to ensure the recognition of their dignity, to promote their self-reliance, and to facilitate their active participation in the community.
22. Indigenous children and children belonging to minorities and vulnerable groups are disproportionately disadvantaged in many countries owing to all forms of discrimination, including racial discrimination. We will take appropriate measures to end discrimination, to provide special support, and to ensure equal access to services for these children.
23. The achievement of goals for children, particularly for girls, will be advanced if women fully enjoy all human rights and fundamental freedoms, including the right to development, are empowered to participate fully and equally in all spheres of society and are protected and free from all forms of violence, abuse and discrimination. We are determined to eliminate all forms of discrimination against the girl child throughout her life cycle and to provide special attention to her needs in order to promote and protect all her human rights, including the right to be free from coercion and from harmful practices and sexual exploitation. We will promote gender equality and equal access to basic social services, such as education, nutrition, health care, including sexual and reproductive health care, vaccinations, and protection from diseases representing the major causes of mortality, and will mainstream a gender perspective in all development policies and programmes.
24. We also recognize the need to address the changing role of men in society, as boys, adolescents and fathers, and the challenges faced by boys growing up in today's world. We will further promote the shared responsibility of both parents in education and in the raising of children, and will make every effort to ensure that fathers have opportunities to participate in their children's lives.
25. It is vital that national goals for children include targets for reducing disparities, in particular those which arise from discrimination on the basis of race, between girls and boys, rural and urban children, wealthy and poor children and those with and without disabilities.
26. A number of environmental problems and trends, such as global warming, ozone layer depletion, air pollution, hazardous wastes, exposure to hazardous chemicals and pesticides, inadequate sanitation, poor hygiene, unsafe drinking water and food and inadequate housing, need to be addressed to ensure the health and well-being of children.
27. Adequate housing fosters family integration, contributes to social equity and strengthens the feeling of belonging, security and human solidarity, all of which are essential for the well-being of children. Accordingly, we will attach a high priority to overcoming the housing shortage and other infrastructure needs, particularly for children in marginalized peri-urban and remote rural areas.
28. We will take measures to manage our natural resources and protect and conserve our environment in a sustainable manner. We will work to change unsustainable patterns of production and consumption, bearing in mind principles, including the principle that, in view of different contributions to global and environmental degradation, States have common but differentiated responsibilities. We will help to educate all children and adults to respect the natural environment for their health and well-being.

29. The Convention on the Rights of the Child and the Optional Protocols thereto contain a comprehensive set of international legal standards for the protection and well-being of children. We also recognize the importance of other international instruments relevant for children. The general principles of, *inter alia*, the best interests of the child, non-discrimination, participation and survival and development provide the framework for our actions concerning children, including adolescents. We urge all countries to consider, as a matter of priority, signing and ratifying or acceding to the Convention on the Rights of the Child, the Optional Protocols thereto, as well as International Labour Organization Conventions Nos. 138^[8] and 182.^[9] We urge States parties to implement fully their treaty obligations and to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing reservations with a view to withdrawing them.
30. We welcome the entry into force of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, and urge States parties to implement them fully.
31. We, the Governments participating in the special session, commit ourselves to implementing the Plan of Action through consideration of such measures as:
- (a) Putting in place, as appropriate, effective national legislation, policies and action plans and allocating resources to fulfil and protect the rights and to secure the well-being of children;
 - (b) Establishing or strengthening national bodies such as, *inter alia*, independent ombudspersons for children, where appropriate, or other institutions for the promotion and protection of the rights of the child;
 - (c) Developing national monitoring and evaluation systems to assess the impact of our actions on children;
 - (d) Enhancing widespread awareness and understanding of the rights of the child.

Partnerships and participation

32. In order to implement the present Plan of Action, we will strengthen our partnership with the following actors, who have unique contributions to make, and encourage the use of all avenues for participation to advance our common cause — the well-being of children and the promotion and protection of their rights:
1. Children, including adolescents, must be enabled to exercise their right to express their views freely, according to their evolving capacity, and build self-esteem, acquire knowledge and skills, such as those for conflict resolution, decision-making and communication, to meet the challenges of life. The right of children, including adolescents, to express themselves freely must be respected and promoted and their views taken into account in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child. The energy and creativity of children and young people must be nurtured so that they can actively take part in shaping

[8] Convention concerning the Minimum Age for Admission to Employment, 1973.

[9] Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999.

their environment, their societies and the world they will inherit. Disadvantaged and marginalized children, including adolescents in particular, need special attention and support to access basic services, to build self-esteem and to prepare them to take responsibility for their own lives. We will strive to develop and implement programmes to promote meaningful participation by children, including adolescents, in decision-making processes, including in families and schools and at the local and national levels.

2. Parents, families, legal guardians and other caregivers have the primary role and responsibility for the well-being of children, and must be supported in the performance of their child-rearing responsibilities. All our policies and programmes should promote the shared responsibility of parents, families, legal guardians and other caregivers, and society as a whole in this regard.
3. Local governments and authorities through, *inter alia*, strengthened partnerships at all levels, can ensure that children are at the centre of agendas for development. By building on ongoing initiatives, such as child-friendly communities and cities without slums, mayors and local leaders can improve significantly the lives of children.
4. Parliamentarians or members of legislatures are key to the implementation of the present Plan of Action, the success of which will require that they promote awareness-raising, adopt necessary legislation, facilitate and appropriate the financial resources needed for this purpose, and monitor their effective utilization.
5. Non-governmental organizations and community-based organizations will be supported in their work and mechanisms should be established, where appropriate, to facilitate the participation of civil society in matters relating to children. Civil society actors have a special role to play in promoting and supporting positive behaviour and creating an environment that is conducive to the well-being of children.
6. The private sector and corporate entities have a special contribution to make, from adopting and adhering to practices that demonstrate social responsibility to providing resources, including innovative sources of financing and community improvement schemes that benefit children, such as microcredits.
7. Religious, spiritual, cultural and indigenous leaders, with their tremendous outreach, have a key role as front-line actors for children to help to translate the goals and targets of the present Plan of Action into priorities for their communities and to mobilize and inspire people to take action in favour of children.
8. The mass media and their organizations have a key role to play in raising awareness about the situation of children and the challenges facing them. They should also play a more active role in informing children, parents, families and the general public about initiatives that protect and promote the rights of children, and should also contribute to educational programmes for children. In this regard, the media should be attentive to their influence on children.
9. Regional and international organizations, in particular all United Nations bodies, as well as the Bretton Woods institutions and other multilateral agencies, should be encouraged to collaborate and play a key role in accelerating and achieving progress for children.
10. People who work directly with children have great responsibilities. It is important to enhance their status, morale and professionalism.

B. Goals, strategies and actions

33. Since the World Summit for Children, many goals and targets relevant to children have been endorsed by major United Nations summits and conferences and their review processes. We strongly reaffirm our commitment to achieve these goals and targets, and to offer this and future generations of children the opportunities denied to their parents. As a step towards building a strong foundation for attaining the 2015 international development targets and Millennium Summit goals, we resolve to achieve the unmet goals and objectives as well as a consistent set of intermediate targets and benchmarks during the course of this decade (2000–2010) in the following priority areas of action.
34. Taking into account the best interests of the child, we commit ourselves to implement the following goals, strategies and actions with appropriate adaptations to the specific situation of each country and the diverse situations and circumstances in different regions and countries throughout the world.

1. Promoting healthy lives

35. Owing to poverty and lack of access to basic social services, more than 10 million children under five years of age, nearly half of them in their neonatal period, die every year of preventable diseases and malnutrition. Complications related to pregnancy and childbirth and maternal anaemia and malnutrition kill more than half a million women and adolescents each year, and injure and disable many more. More than one billion people cannot obtain safe drinking water, 150 million children under five years of age are malnourished, and more than two billion people lack access to adequate sanitation.
36. We are determined to break the intergenerational cycle of malnutrition and poor health by providing a safe and healthy start in life for all children; providing access to effective, equitable, sustained and sustainable primary health-care systems in all communities, ensuring access to information and referral services; providing adequate water and sanitation services; and promoting a healthy lifestyle among children and adolescents. Accordingly, we resolve to achieve the following goals in conformity with the outcomes of recent United Nations conferences, summits and special sessions of the General Assembly, as reflected in their respective reports:
 - (a) Reduction in the infant and under-five mortality rate by at least one third, in pursuit of the goal of reducing it by two thirds by 2015;
 - (b) Reduction in the maternal mortality ratio by at least one third, in pursuit of the goal of reducing it by three quarters by 2015;
 - (c) Reduction of child malnutrition among children under five years of age by at least one third, with special attention to children under two years of age, and reduction in the rate of low birth weight by at least one third of the current rate;
 - (d) Reduction in the proportion of households without access to hygienic sanitation facilities and affordable and safe drinking water by at least one third;
 - (e) Development and implementation of national early childhood development policies and programmes to ensure the enhancement of children's physical, social, emotional, spiritual and cognitive development;
 - (f) Development and implementation of national health policies and programmes for adolescents, including goals and indicators, to promote their physical and mental health;
 - (g) Access through the primary health-care system to reproductive health for all individuals of appropriate age as soon as possible, and no later than 2015.

37. To achieve these goals and targets, taking into account the best interests of the child, consistent with national laws, religious and ethical values and cultural backgrounds of the people, and in conformity with all human rights and fundamental freedoms, we will carry out the following strategies and actions:
1. Ensure that the reduction of maternal and neonatal morbidity and mortality is a health sector priority and that women, in particular adolescent expectant mothers, have ready and affordable access to essential obstetric care, well-equipped and adequately staffed maternal health-care services, skilled attendance at delivery, emergency obstetric care, effective referral and transport to higher levels of care when necessary, post-partum care and family planning in order, *inter alia*, to promote safe motherhood.
 2. Provide access to appropriate, user-friendly and high-quality health-care services, education and information to all children.
 3. Address effectively, for all individuals of appropriate age, the promotion of their healthy lives, including their reproductive and sexual health, consistent with the commitments and outcomes of recent United Nations conferences and summits, including the World Summit for Children, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the World Summit for Social Development and the Fourth World Conference on Women, their five-year reviews and reports.
 4. Promote child health and survival and reduce disparities between and within developed and developing countries as quickly as possible, with particular attention to eliminating the pattern of excess and preventable mortality among girl infants and children.
 5. Protect, promote and support exclusive breastfeeding of infants for six months and continued breastfeeding with safe, appropriate and adequate complementary feeding up to two years of age or beyond. Provide infant-feeding counselling for mothers living with HIV/AIDS so that they can make free and informed choices.
 6. Special emphasis must be placed on prenatal and post-natal care, essential obstetric care and care for newborns, particularly for those living in areas without access to services.
 7. Ensure full immunization of children under one year of age, at 90 per cent coverage nationally, with at least 80 per cent coverage in every district or equivalent administrative unit; reduce deaths due to measles by half by 2005; eliminate maternal and neonatal tetanus by 2005; and extend the benefits of new and improved vaccines and other preventive health interventions to children in all countries.
 8. Certify by 2005 the global eradication of poliomyelitis.
 9. Eradicate guinea worm disease.
 10. Strengthen early childhood development by providing appropriate services and support to parents, including parents with disabilities, families, legal guardians and caregivers, especially during pregnancy, birth, infancy and early childhood, so as to ensure children's physical, psychological, social, spiritual and cognitive development.
 11. Intensify proven, cost-effective actions against diseases and malnutrition that are the major causes of child mortality and morbidity, including reducing by one third deaths due to acute respiratory infections; reducing by one half deaths due to diarrhoea among children under the age of five; reducing by one half tuberculosis deaths and prevalence; and reducing the incidence of intestinal parasites, cholera, sexually transmitted infections, HIV/AIDS and all forms of hepatitis, and ensure that effective measures are affordable and accessible, particularly in highly marginalized areas or populations.

12. Reduce by one half the burden of disease associated with malaria and ensure that 60 per cent of all people at risk of malaria, especially children and women, sleep under insecticide-treated bednets.
13. Improve the nutrition of mothers and children, including adolescents, through household food security, access to basic social services and adequate caring practices.
14. Support populations and countries suffering from severe food shortages and famine.
15. Strengthen health and education systems and expand social security systems to increase access to integrated and effective health, nutrition and childcare in families, communities, schools and primary health-care facilities, including prompt attention to marginalized boys and girls.
16. Reduce child injuries due to accidents or other causes through the development and implementation of appropriate preventive measures.
17. Ensure effective access by children with disabilities and children with special needs to integrated services, including rehabilitation and health care, and promote family-based care and appropriate support systems for parents, families, legal guardians and caregivers of these children.
18. Provide special help to children suffering from mental illnesses or psychological disorders.
19. Promote physical, mental and emotional health among children, including adolescents, through play, sports, recreation, artistic and cultural expression.
20. Develop and implement policies and programmes for children, including adolescents, aimed at preventing the use of narcotic drugs, psychotropic substances and inhalants, except for medical purposes, and at reducing the adverse consequences of their abuse, as well as support preventive policies and programmes, especially against tobacco and alcohol.
21. Develop policies and programmes aimed at children, including adolescents, for the reduction of violence and suicide.
22. Achieve sustainable elimination of iodine deficiency disorders by 2005 and vitamin A deficiency by 2010; reduce by one third the prevalence of anaemia, including iron deficiency, by 2010; and accelerate progress towards reduction of other micronutrient deficiencies, through dietary diversification, food fortification and supplementation.
23. In efforts to ensure universal access to safe water and adequate sanitation facilities, pay greater attention to building family and community capacity for managing existing systems and promoting behavioural change through health and hygiene education, including in the school curriculum.
24. Address any disparities in health and access to basic social services, including health-care services for indigenous children and children belonging to minorities.
25. Develop legislation policies and programmes, as appropriate, at the national level and enhance international cooperation to prevent, *inter alia*, the exposure of children to harmful environmental contaminants in the air, water, soil and food.

2. Providing quality education

38. Education is a human right and a key factor to reducing poverty and child labour and promoting democracy, peace, tolerance and development. Yet more than 100 million children of primary school age, the majority of them girls, are not enrolled in school. Millions more are taught by untrained and underpaid teachers in overcrowded, unhealthy and poorly equipped classrooms. And one third of all children do not complete five years of schooling, the minimum required for basic literacy.

39. As agreed at the World Education Forum in Dakar,^[10] which reconfirmed the mandated role of the United Nations Educational, Scientific and Cultural Organization in coordinating “Education For All” partners and maintaining their collective momentum within the process of securing basic education, we will accord high priority to ensuring by 2015 that all children have access to and complete primary education that is free, compulsory and of good quality. We will also aim at the progressive provision of secondary education. As a step towards these goals, we resolve to achieve the following targets:
- (a) Expand and improve comprehensive early childhood care and education, for girls and boys, especially for the most vulnerable and disadvantaged children;
 - (b) Reduce the number of primary school-age children who are out of school by 50 per cent and increase net primary school enrolment or participation in alternative, good quality primary education programmes to at least 90 per cent by 2010;
 - (c) Eliminate gender disparities in primary and secondary education by 2005; and achieve gender equality in education by 2015, with a focus on ensuring girls’ full and equal access to and achievement in basic education of good quality;
 - (d) Improve all aspects of the quality of education so that children and young people achieve recognized and measurable learning outcomes, especially in numeracy, literacy and essential life skills;
 - (e) Ensure that the learning needs of all young people are met through access to appropriate learning and life skills programmes;
 - (f) Achieve a 50 per cent improvement in levels of adult literacy by 2015, especially for women.
40. To achieve these goals and targets, we will implement the following strategies and actions:
1. Develop and implement special strategies to ensure that schooling is readily accessible to all children and adolescents, and that basic education is affordable for all families.
 2. Promote innovative programmes that encourage schools and communities to search more actively for children who have dropped out or are excluded from school and from learning, especially girls and working children, children with special needs and children with disabilities, and help them to enrol in and attend schools, and successfully complete their education, involving Governments as well as families, communities and non-governmental organizations as partners in the educational process. Special measures should be put in place to prevent and reduce dropout due to, *inter alia*, entry into employment.
 3. Bridge the divide between formal and non-formal education, taking into account the need to ensure good quality in terms of educational services, including the competence of providers, and acknowledging that non-formal education and alternative approaches provide beneficial experiences. In addition, develop complementarity between the two delivery systems.
 4. Ensure that all basic education programmes are accessible, inclusive and responsive to children with special learning needs and for children with various forms of disabilities.
 5. Ensure that indigenous children and children belonging to minorities have access to quality education on the same basis as other children. Efforts must be directed to providing this education in a manner that respects their heritage. Efforts must also be directed to providing educational opportunities so that indigenous children and children belonging to minorities can develop an understanding of and sustain their cultural identity, including significant aspects such as language and values.

[10] See United Nations Educational, Scientific and Cultural Organization, Final Report of the World Education Forum, Dakar, Senegal, 26–28 April 2000 (Paris, 2000).

6. Develop and implement special strategies for improving the quality of education and meeting the learning needs of all.
7. Create, with children, a child-friendly learning environment, in which they feel safe, are protected from abuse, violence and discrimination, and are healthy and encouraged to learn. Ensure that education programmes and materials reflect fully the promotion and protection of human rights and the values of peace, tolerance and gender equality, using every opportunity presented by the International Decade for a Culture of Peace and Non-Violence for the Children of the World, 2001–2010.
8. Strengthen early childhood care and education by providing services, developing and supporting programmes directed toward families, legal guardians, caregivers and communities.
9. Provide education and training opportunities to adolescents to help them to acquire sustainable livelihoods.
10. Design, where appropriate, and implement programmes that enable pregnant adolescents and adolescent mothers to continue to complete their education.
11. Urge the continued development and implementation of programmes for children, including adolescents, especially in schools, to prevent and discourage the use of tobacco and alcohol and detect, counter and prevent trafficking in and the use of narcotic drugs and psychotropic substances except for medical purposes by, *inter alia*, promoting mass media information campaigns on their harmful effects as well as the risk of addiction, and taking necessary actions to deal with the root causes.
12. Promote innovative programmes to provide incentives to low-income families with school-age children to increase the enrolment and attendance of girls and boys and to ensure that they are not obliged to work in a way that interferes with their schooling.
13. Develop and implement programmes that specifically aim to eliminate gender disparities in enrolment and gender-based bias and stereotypes in education systems, curricula and materials, whether derived from any discriminatory practices, social or cultural attitudes or legal and economic circumstances.
14. Enhance the status, morale, training and professionalism of teachers, including early childhood educators, ensuring appropriate remuneration for their work and opportunities and incentives for their development.
15. Develop responsive, participatory and accountable systems of educational governance and management at the school, community and national levels.
16. Meet the specific learning needs of children affected by crises, by ensuring that education is provided during and after crises, and conduct education programmes to promote a culture of peace in ways that help to prevent violence and conflict and promote the rehabilitation of victims.
17. Provide accessible recreational and sports opportunities and facilities at schools and in communities.
18. Harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality.
19. Develop strategies to mitigate the impact of HIV/AIDS on education systems and schools, students and learning.

3. Protecting against abuse, exploitation and violence

41. Hundreds of millions of children are suffering and dying from war, violence, exploitation, neglect and all forms of abuse and discrimination. Around the world, children live under especially difficult circumstances – permanently disabled or seriously injured by armed conflict; internally displaced or driven from their countries as refugees; suffering from natural and man-made disasters, including such perils as exposure to radiation and dangerous chemicals; as children of migrant workers and other socially disadvantaged groups; as victims of racism, racial discrimination, xenophobia and related intolerance. Trafficking, smuggling, physical and sexual exploitation and abduction, as well as the economic exploitation of children, even in its worst forms, are daily realities for children in all regions of the world, while domestic violence and sexual violence against women and children remain serious problems. In several countries, there have been social and humanitarian impacts from economic sanctions on the civilian population, in particular women and children.
42. In some countries, the situation of children is adversely affected by unilateral measures not in accordance with international law and the Charter of the United Nations that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women and children, including adolescents.
43. Children have the right to be protected from all forms of abuse, neglect, exploitation and violence. Societies must eliminate all forms of violence against children. Accordingly, we resolve to:
 - (a) Protect children from all forms of abuse, neglect, exploitation and violence;
 - (b) Protect children from the impact of armed conflict and ensure compliance with international humanitarian law and human rights law;
 - (c) Protect children from all forms of sexual exploitation, including paedophilia, trafficking and abduction;
 - (d) Take immediate and effective measures to eliminate the worst forms of child labour as defined in International Labour Organization Convention No. 182, and elaborate and implement strategies for the elimination of child labour that is contrary to accepted international standards;
 - (e) Improve the plight of millions of children who live under especially difficult circumstances.
44. To achieve these goals, we will implement the following strategies and actions:

General protection

1. Develop systems to ensure the registration of every child at or shortly after birth, and fulfil his or her right to acquire a name and a nationality, in accordance with national laws and relevant international instruments.
2. Encourage all countries to adopt and enforce laws, and improve the implementation of policies and programmes to protect children from all forms of violence, neglect, abuse and exploitation, whether at home, in school or other institutions, in the workplace, or in the community.
3. Adopt special measures to eliminate discrimination against children on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status, and ensure their equal access to education, health and basic social services.

4. End impunity for all crimes against children by bringing perpetrators to justice and publicizing the penalties for such crimes.
5. Take steps with a view to the avoidance of and refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that impedes the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinders their well-being and that creates obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for their health and well-being and their right to food, medical care and the necessary social services. Ensure that food and medicine are not used as tools for political pressure.
6. Raise awareness about the illegality and harmful consequences of failing to protect children from violence, abuse and exploitation.
7. Promote the establishment of prevention, support and caring services as well as justice systems specifically applicable to children, taking into account the principles of restorative justice and fully safeguard children's rights and provide specially trained staff to promote children's reintegration in society.
8. Protect children from torture and other cruel, inhuman or degrading treatment or punishment. Call upon the Governments of all States, in particular States in which the death penalty has not been abolished, to comply with the obligations they have assumed under relevant provisions of international human rights instruments, including in particular articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights.^[11]
9. End harmful traditional or customary practices, such as early and forced marriage and female genital mutilation, which violate the rights of children and women.
10. Establish mechanisms to provide special protection and assistance to children without primary caregivers.
11. Adopt and implement policies for the prevention, protection, rehabilitation and reintegration, as appropriate, of children living in disadvantaged social situations and who are at risk, including orphans, abandoned children, children of migrant workers, children working and/or living on the street and children living in extreme poverty, and ensure their access to education, health, and social services as appropriate.
12. Protect children from adoption and foster care practices that are illegal, exploitative or that are not in their best interest.
13. Address cases of international kidnapping of children by one of the parents.
14. Combat and prevent the use of children, including adolescents, in the illicit production of and trafficking in narcotic drugs and psychotropic substances.
15. Promote comprehensive programmes to counter the use of children, including adolescents, in the production of and trafficking in narcotic drugs and psychotropic substances.
16. Make appropriate treatment and rehabilitation accessible for children, including adolescents, dependent on narcotic drugs, psychotropic substances, inhalants and alcohol.
17. Provide protection and assistance to refugees and internally displaced persons, the majority of whom are women and children, in accordance with international law, including international humanitarian law.

[11] See resolution 2200 A (XXI), annex.

18. Ensure that children affected by natural disasters receive timely and effective humanitarian assistance through a commitment to improved contingency planning and emergency preparedness, and that they are given all possible assistance and protection to help them to resume a normal life as soon as possible.
19. Encourage measures to protect children from violent or harmful web sites, computer programmes and games that negatively influence the psychological development of children, taking into account the responsibilities of the family, parents, legal guardians and caregivers.

Protection from armed conflict

20. Strengthen the protection of children affected by armed conflict and adopt effective measures for the protection of children under foreign occupation.
21. Ensure that issues pertaining to the rights and protection of children are fully reflected in the agendas of peacemaking processes and in ensuing peace agreements, and are incorporated, as appropriate, into United Nations peacekeeping operations and peace-building programmes; and involve children, where possible, in these processes.
22. End the recruitment and use of children in armed conflict contrary to international law, ensure their demobilization and effective disarmament and implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society.
23. Put an end to impunity, prosecute those responsible for genocide, crimes against humanity, and war crimes and exclude, where feasible, these crimes from amnesty provisions and amnesty legislation, and ensure that whenever post-conflict truth and justice-seeking mechanisms are established, serious abuses involving children are addressed and that appropriate child-sensitive procedures are provided.
24. Take concrete action against all forms of terrorism, which causes serious obstacles to the development and well-being of children.
25. Provide appropriate training and education in children's rights and protection as well as in international humanitarian law to all civilian, military and police personnel involved in peacekeeping operations.
26. Curb the illicit flow of small arms and light weapons and protect children from landmines, unexploded ordnance and other war materiel that victimize them, and provide assistance to victimized children during and after armed conflict.
27. Resolve to strengthen international cooperation, including burden-sharing in and coordination of humanitarian assistance to countries hosting refugees, and to help all refugees and displaced persons, including children and their families, to return voluntarily to their homes in safety and dignity and to be smoothly reintegrated in their societies.
28. Develop and implement policies and programmes, with necessary international cooperation, for the protection, care and well-being of refugee children and children seeking asylum and for the provision of basic social services, including access to education, in addition to health care and food.
29. Give priority to programmes for family tracing and reunification, and continue to monitor the care arrangements for unaccompanied and/or separated refugee and internally displaced children.
30. Assess and monitor regularly the impact of sanctions on children and take urgent and effective measures in accordance with international law with a view to alleviating the negative impact of economic sanctions on women and children.

31. Take all necessary measures to protect children from being taken as hostages.
32. Develop specific strategies to protect and provide for the special needs and particular vulnerabilities of girls affected by armed conflict.

Combating child labour

33. Take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. Provide for the rehabilitation and social integration of children removed from the worst forms of child labour by, *inter alia*, ensuring access to free basic education and, whenever possible and appropriate, vocational training.
34. Take appropriate steps to assist one another in the elimination of the worst forms of child labour through enhanced international cooperation and/or assistance, including support for social and economic development, poverty eradication programmes and universal education.
35. Elaborate and implement strategies to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
36. In this context, protect children from all forms of economic exploitation by mobilizing national partnerships and international cooperation, and improve the conditions of children by, *inter alia*, providing working children with free basic education and vocational training, and integration into the education system in every way possible, and encourage support for social and economic policies aimed at poverty eradication and at providing families, particularly women, with employment and income-generating opportunities.
37. Promote international cooperation to assist developing countries upon request in addressing child labour and its root causes, *inter alia*, through social and economic policies aimed at poverty eradication, while stressing that labour standards should not be used for protectionist trade purposes.
38. Strengthen the collection and analysis of data on child labour.
39. Mainstream action relating to child labour into national poverty eradication and development efforts, especially in policies and programmes in the areas of health, education, employment and social protection.

Elimination of trafficking and sexual exploitation of children

40. Take concerted national and international action as a matter of urgency to end the sale of children and their organs, sexual exploitation and abuse, including the use of children for pornography, prostitution and paedophilia, and to combat existing markets.
41. Raise awareness of the illegality and harmful consequences of sexual exploitation and abuse, including through the Internet, and trafficking in children.
42. Enlist the support of the private sector, including the tourism industry and the media, for a campaign against sexual exploitation of and trafficking in children.
43. Identify and address the underlying causes and the root factors, including external factors, leading to sexual exploitation of and trafficking in children and implement preventive strategies against sexual exploitation of and trafficking in children.
44. Ensure the safety, protection and security of victims of trafficking and sexual exploitation and provide assistance and services to facilitate their recovery and social reintegration.

45. Take necessary action, at all levels, as appropriate, to criminalize and penalize effectively, in conformity with all relevant and applicable international instruments, all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child prostitution, paedophilia, child pornography, child sex tourism, trafficking, the sale of children and their organs, engagement in forced child labour and any other form of exploitation, while ensuring that, in the treatment by the criminal justice system of children who are victims, the best interests of the child shall be a primary consideration.
46. Monitor and share information regionally and internationally on the cross-border trafficking of children; strengthen the capacity of border and law enforcement officials to stop trafficking and provide or strengthen training for them to respect the dignity, human rights and fundamental freedoms of all those, particularly women and children, who are victims of trafficking.
47. Take necessary measures, including through enhanced cooperation between Governments, inter-governmental organizations, the private sector and non-governmental organizations to combat the criminal use of information technologies, including the Internet, for purposes of the sale of children, for child prostitution, child pornography, child sex tourism, paedophilia and other forms of violence and abuse against children and adolescents.

4. Combating HIV/AIDS

45. The HIV/AIDS pandemic is having a devastating effect on children and those who provide care for them. This includes the 13 million children orphaned by AIDS, the nearly 600,000 infants infected every year through mother-to-child transmission and the millions of HIV-positive young people living with the stigma of HIV but without access to adequate counselling, care and support.
46. To combat the devastating impact of HIV/AIDS on children, we resolve to take urgent and aggressive action as agreed at the special session of the General Assembly on HIV/AIDS,^[12] and to place particular emphasis on the following agreed goals and commitments:
 - (a) By 2003, establish time-bound national targets to achieve the internationally agreed global prevention goal to reduce by 2005 HIV prevalence among young men and women aged 15 to 24 in the most affected countries by 25 per cent and by 25 per cent globally by 2010, and intensify efforts to achieve these targets as well as to challenge gender stereotypes and attitudes, and gender inequalities in relation to HIV/AIDS, encouraging the active involvement of men and boys;
 - (b) By 2005, reduce the proportion of infants infected with HIV by 20 per cent, and by 50 per cent by 2010, by ensuring that 80 per cent of pregnant women accessing antenatal care have information, counselling and other HIV-prevention services available to them, increasing the availability of and providing access for HIV-infected women and babies to effective treatment to reduce mother-to-child transmission of HIV, as well as through effective interventions for HIV-infected women, including voluntary and confidential counselling and testing, access to treatment, especially anti-retroviral therapy and, where appropriate, breast-milk substitutes and the provision of a continuum of care;
 - (c) By 2003, develop and by 2005 implement national policies and strategies to build and strengthen governmental, family and community capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV/AIDS, including by providing appropriate counsel-

[12] See resolution S-26/2.

ling and psychosocial support, ensuring their enrolment in school and access to shelter, good nutrition and health and social services on an equal basis with other children; and protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance.

47. To achieve these goals, we will implement the following strategies and actions:

1. By 2003, ensure the development and implementation of multisectoral national strategies and financing plans for combating HIV/AIDS that address the epidemic in forthright terms; confront stigma, silence and denial; address gender and age-based dimensions of the epidemic; eliminate discrimination and marginalization; involve partnerships with civil society and the business sector and the full participation of people living with HIV/AIDS, those in vulnerable groups and people mostly at risk, particularly women and young people; are resourced to the extent possible from national budgets without excluding other sources, *inter alia*, international cooperation; promote and protect fully all human rights and fundamental freedoms, including the right to the highest attainable standard of physical and mental health; integrate a gender perspective; address risk, vulnerability, prevention, care, treatment and support and reduction of the impact of the epidemic; and strengthen health, education and legal system capacity.
2. By 2005, ensure that at least 90 per cent, and by 2010 at least 95 per cent of young men and women aged 15 to 24 have access to the information, education, including peer education and youth-specific HIV education, and services necessary to develop the life skills required to reduce their vulnerability to HIV infection, in full partnership with young people, parents, families, educators and health-care providers.
3. By 2005, develop and make significant progress in implementing comprehensive care strategies to: strengthen family and community-based care, including that provided by the informal sector, and health-care systems to provide and monitor treatment to people living with HIV/AIDS, including infected children, and to support individuals, households, families and communities affected by HIV/AIDS; and improve the capacity and working conditions of health-care personnel, and the effectiveness of supply systems, financing plans and referral mechanisms required to provide access to affordable medicines, including anti-retroviral drugs, diagnostics and related technologies, as well as quality medical, palliative and psychosocial care.
4. By 2005, implement measures to increase capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including for sexual and reproductive health, and through prevention education that promotes gender equality within a culturally and gender-sensitive framework.
5. By 2003, develop and/or strengthen strategies, policies and programmes which recognize the importance of the family in reducing vulnerability, *inter alia*, in educating and guiding children and take account of cultural, religious and ethical factors, to reduce the vulnerability of children and young people by ensuring access of both girls and boys to primary and secondary education, including HIV/AIDS in curricula for adolescents; ensuring safe and secure environments, especially for young girls; expanding good-quality, youth-friendly information and sexual health education and counselling services; strengthening reproductive and sexual health programmes; and involving families and young people in planning, implementing and evaluating HIV/AIDS prevention and care programmes, to the extent possible.

6. By 2003, develop and begin to implement national strategies that incorporate HIV/AIDS awareness, prevention, care and treatment elements into programmes or actions that respond to emergency situations, recognizing that populations destabilized by armed conflict, humanitarian emergencies and natural disasters, including refugees, internally displaced persons, and in particular women and children, are at increased risk of exposure to HIV infection; and, where appropriate, factor HIV/AIDS components into international assistance programmes.
7. Ensure non-discrimination and full and equal enjoyment of all human rights through the promotion of an active and visible policy of de-stigmatization of children orphaned and made vulnerable by HIV/AIDS.
8. Urge the international community to complement and supplement efforts of developing countries that commit increased national funds to fight the HIV/AIDS epidemic through increased international development assistance, particularly those countries most affected by HIV/AIDS, particularly in Africa, especially in sub-Saharan Africa, the Caribbean, countries at high risk of expansion of the HIV/AIDS epidemic and other affected regions whose resources to deal with the epidemic are seriously limited.

C. Mobilizing resources

48. Promoting healthy lives, including good nutrition and control of infectious diseases, providing quality education, protecting children from abuse, exploitation, violence and armed conflict and combating HIV/AIDS are achievable goals and are clearly affordable for the global community.
49. The primary responsibility for the implementation of the present Plan of Action and for ensuring an enabling environment for securing the well-being of children, in which the rights of each and every child are promoted and respected, rests with each individual country, recognizing that new and additional resources, both national and international, are required for this purpose.
50. Investments in children are extraordinarily productive if they are sustained over the medium to long term. Investing in children and respecting their rights lays the foundation for a just society, a strong economy, and a world free of poverty.
51. Implementation of the present Plan of Action will require the allocation of significant additional human, financial and material resources, nationally and internationally, within the framework of an enabling international environment and enhanced international cooperation, including North-South and South-South cooperation, to contribute to economic and social development.
52. Accordingly, we resolve to pursue, among others, the following global targets and actions for mobilizing resources for children:
 - (a) Express our appreciation to the developed countries that have agreed to and have reached the target of 0.7 per cent of their gross national product for overall official development assistance, and urge the developed countries that have not done so to strive to meet the yet to be attained internationally agreed target of 0.7 per cent of their gross national product for overall official development assistance as soon as possible. We take it upon ourselves not to spare any efforts to reverse the declining trends of official development assistance and to meet expeditiously the targets of 0.15 per cent to 0.20 per cent of gross national product as official development assistance to least developed countries, as agreed, taking into account the urgency and gravity of the special needs of children;

- (b) Without further delay, implement the enhanced Heavily Indebted Poor Countries Initiative and agree to cancel all bilateral official debts of heavily indebted poor countries as soon as possible, in return for demonstrable commitments by them to poverty eradication, and urge the use of debt service savings to finance poverty eradication programmes, in particular those related to children;
 - (c) Call for speedy and concerted action to address effectively the debt problems of least developed countries, low-income developing countries and middle-income developing countries in a comprehensive, equitable, development-oriented and durable way through various national and international measures designed to make their debt sustainable in the long term and thereby to improve their capacity to deal with issues relating to children, including, as appropriate, existing orderly mechanisms for debt reduction such as debt swaps for projects aimed at meeting the needs of children;
 - (d) Increase and improve access of products and services of developing countries to international markets through, *inter alia*, the negotiated reduction of tariff barriers and the elimination of non-tariff barriers, which unjustifiably hinder trade of developing countries, according to the multilateral trading system;
 - (e) Believing that increased trade is essential for the growth and development of LDCs, aim at improving preferential market access for LDCs by working towards the objective of duty-free and quota-free market access for all LDCs' products in the markets of developed countries;
 - (f) Mobilize new and substantial additional resources for social development, both at national and international level, to reduce disparities within and among countries, and ensure the effective and efficient use of existing resources. Further, ensure to the greatest possible extent, that social expenditures that benefit children are protected and prioritized during both short-term and long-term economic and financial crises;
 - (g) Explore new ways of generating public and private financial resources, *inter alia*, through the reduction of excessive military expenditures and the arms trade and investment in arms production and acquisition, including global military expenditures, taking into consideration national security requirements;
 - (h) Encourage donor and recipient countries, based on mutual agreement and commitment, to implement fully the 20/20 initiative, in line with the Oslo and Hanoi Consensus documents,^[13] to ensure universal access to basic social services.
53. We will give priority attention to meeting the needs of the world's most vulnerable children in developing countries, in particular in least developed countries and sub-Saharan Africa.
54. We will also give special attention to the needs of children in small island developing States, landlocked and transit developing countries and other developing countries, as well as countries with economies in transition.
55. We will promote technical cooperation between countries in order to share positive experience and strategies in the implementation of the present Plan of Action.

[13] Adopted at meetings on the 20/20 initiative held at Oslo from 23 to 25 April 1996 (A/51/140, annex) and at Hanoi from 27 to 29 October 1998 (A/53/684, annex).

56. Meeting our goals and aspirations for children merits new partnerships with civil society, including with non-governmental organizations and the private sector, and innovative arrangements for mobilizing additional resources, both private and public.
57. Bearing in mind that corporations must abide by national legislation, we encourage corporate social responsibility so that it contributes to social development goals and the well-being of children, *inter alia*, by:
1. Promoting increased corporate awareness of the interrelationship between social development and economic growth.
 2. Providing a legal, economic and social policy framework that is just and stable to support and stimulate private sector initiatives aimed at achieving these goals.
 3. Enhancing partnerships with business, trade unions and civil society at the national level in support of the goals of the Plan of Action.
- We urge the private sector to assess the impact of its policies and practices on children and to make the benefits of research and development in science, medical technology, health, food fortification, environmental protection, education and mass communication available to all children, particularly to those in greatest need.
58. We resolve to ensure greater policy coherence and better cooperation between the United Nations, its agencies, and the Bretton Woods institutions, as well as other multilateral bodies and civil society, with a view to achieving the goals of the present Plan of Action.

D. Follow-up actions and assessment

59. To facilitate the implementation of actions committed to in this document, we will develop or strengthen as a matter of urgency, if possible by the end of 2003, national and, where appropriate, regional action plans with a set of specific time-bound and measurable goals and targets based on the present Plan of Action, taking into account the best interests of the child, consistent with national laws, religious and ethical values and cultural backgrounds of the people and in conformity with all human rights and fundamental freedoms.
- We will therefore strengthen our national planning and ensure the necessary coordination, implementation and resources. We will integrate the goals of the present Plan of Action into our national Government policies as well as national and subnational development programmes, poverty eradication strategies, multisectoral approaches and other relevant development plans, in cooperation with relevant civil society actors, including non-governmental organizations working for and with children, as well as children, in accordance with their age and maturity, and their families.
60. We will monitor regularly at the national level and, where appropriate, at the regional level and assess progress towards the goals and targets of the present Plan of Action at the national, regional and global levels. Accordingly, we will strengthen our national statistical capacity to collect, analyse and disaggregate data, including by sex, age and other relevant factors that may lead to disparities, and support a wide range of child-focused research. We will enhance international cooperation to support statistical capacity-building efforts and build community capacity for monitoring, assessment and planning.

61. We will conduct periodic reviews at the national and subnational levels of progress in order to address obstacles more effectively and accelerate actions. At the regional level, such reviews will be used to share best practices, strengthen partnerships and accelerate progress. Therefore:
- (a) We encourage States parties to the Convention on the Rights of the Child to consider including in their reports to the Committee on the Rights of the Child information on measures taken and results achieved in the implementation of the present Plan of Action;
 - (b) As the world's lead agency for children, the United Nations Children's Fund is requested to continue to prepare and disseminate, in close collaboration with Governments, relevant funds, programmes and the specialized agencies of the United Nations system, and all other relevant actors, as appropriate, information on the progress made in the implementation of the Declaration and the Plan of Action. The governing bodies of the relevant specialized agencies are requested to ensure that, within their mandates, the fullest possible support is given by these agencies for the achievement of the goals outlined in the Plan of Action and to keep the General Assembly of the United Nations, through the Economic and Social Council, fully informed of progress to date and additional action required during the decade ahead, using existing reporting frameworks and procedures;
 - (c) We request the Secretary-General to report regularly to the General Assembly on the progress made in implementing the present Plan of Action.
62. We hereby recommit ourselves to spare no effort in continuing with the creation of a world fit for children, building on the achievements of the past decade and guided by the principles of first call for children. In solidarity with a broad range of partners, we will lead a global movement for children that creates an unstoppable momentum for change. We make this solemn pledge secure in the knowledge that, in giving high priority to the rights of children, to their survival and to their protection and development, we serve the best interests of all humanity and ensure the well-being of all children in all societies.

Appendix 4

CHILDREN'S RECOMMENDATIONS AND PRIORITIES FOR THE IMPROVEMENT OF THEIR NEIGHBOURHOODS

Maintenance, repair and upgrading

- Repairs of sewers and drains.
- Toilets that don't smell.
- Water taps at our houses.
- Get rid of bad-smelling garbage.
- Cover the open drains.
- Prioritise places where children play for clearing litter and waste.
- Repairs to schools and school equipment.
- Clean schools with water and toilets.

Places for play and recreation

- Lighting of places where children like to play after dark.
- Identify areas where there is not enough recreation space relative to population.
- Train staff in parks and swimming pools to work with children to reduce harassment and violence in recreation areas.
- Work with children and local residents to identify spaces near schools and homes that can be upgraded and secured for play.
- All-weather surface for sports.
- Consider creating protected rooftop play.
- Convert waste dumps into places for play.
- Places and resources for both boys and girls.

Public space

- More squares, parks and nature areas.
- More places to meet and socialise.
- Tree planting.
- Make pedestrian areas.
- Don't separate space for young people and children from the life of their communities.
- Street lights.

Traffic and children's mobility

- Provide frequent and safe crossings to children's amenities such as parks and schools. Consult children about their placement.
- Repair faulty traffic signals rapidly.
- Install speed bumps, and reduce speed limits.
- Create cycle tracks.
- Make sidewalks wider.
- Close the main city streets to traffic once a year for special events.
- Make it easier for those who are disabled to move around.
- Offer free or reduced fares on public transport for children below a certain age.
- Consider special weekend and holiday buses to take children and their families to popular recreation places.

Security

- Better security in low-income areas.
- Police who do their job and aren't lazy.
- Street lights and roving guards at night.
- Install adequate street lighting and prune trees that obscure lights.
- Train members of the police force to listen to and assist children and to take threats against children seriously.
- Produce public awareness programmes about children's need for protection from bullying, harassment, crime and abuse.
- Create 'safe havens' for children in violent or troubled neighbourhoods.

Source: This is a compilation of recommendations drawn from children, adapted from papers in an issue of *Environment and Urbanization* on urban children, Vol. 14, No. 2. The ideas come from children in Brazil, South Africa, the Philippines and Italy. Table presented in S. Bartlett, 'Urban Children and the Physical Environment', <http://www.araburban.org/childcity/Papers/English/Sheridan%20Barlett.pdf>

DEFENDING THE HOUSING RIGHTS OF CHILDREN

Individual States and the international community as a whole are obligated to ensure that children's housing rights are respected, protected and fulfilled – without discrimination on any grounds. Yet children's housing rights are violated with impunity in all parts of the world. Recent estimates indicate that there are about 150 million street children worldwide, ranging in age from three to eighteen years. Approximately 40 percent of these children are actually homeless, often living alone without anyone to look after them. Homeless children are forced into a precarious existence on the streets. This not only violates their right to adequate housing, but also threatens their right to personal security, their right to education, their right to the highest attainable standard of health, and – in far too many cases – even their right to life.

Further millions of children throughout the world face similarly grievous violations of their housing rights. All housing rights violations, from forced eviction to inadequate housing conditions, have particular ramifications for children. In its *State of the World's Children 2005* report, the United Nations Children's Fund (UNICEF) reported that more than one out of every three children in the developing world – approximately 640 million children – do not live in adequate housing. One out of five – approximately 400 million children – do not have access to safe drinking water.

Addressing both chronic and acute housing rights violations suffered by millions of children around the world is central to ensuring their long-term security and well-being. This COHRE report examines the many ways in which children suffer violations of their housing rights. It also highlights the international human rights standards that are intended to protect the housing rights of all the world's children.

The Centre on Housing Rights and Evictions (COHRE) is an independent, international non-governmental human rights organisation with its International Secretariat in Geneva, Switzerland. COHRE undertakes a wide range of activities to promote the full realisation of housing rights for everyone, everywhere. COHRE opposes and actively campaigns against forced evictions wherever they occur or are planned. It works in all world regions to ensure protection and fulfilment of the right to adequate housing and related economic, social and cultural rights.



COHRE International Secretariat

83 Rue de Montbrillant
1202 Geneva, Switzerland
Tel: +41.22.734.1028
Fax: +41.22.733.8336
Email: cohre@cohre.org
Web: <http://www.cohre.org>

A project in collaboration with Cordaid

