**THE RIGHT TO LIFE AND THE RIGHT TO ADEQUATE HOUSING**

**Response of the International Movement**

**ATD Fourth World in relation to France and the Philippines**

1. Please provide any statistical indicators or other evidence regarding the health, mortality and morbidity consequences of inadequate housing and homelessness in your country on vulnerable groups, including documentation (visual or otherwise) of the lived experiences behind these numbers and of particular circumstances of which your organization is aware.

In France, the Collectif Les Morts de la Rue (CMDR) has published a study on the deaths of “homeless” and “formerly homeless” people. The report covered 390 people without a home and 49 formerly homeless who died in 2012. The category "homeless" comprised people who were living on the street or ‘hosted’ (in an emergency shelter or a group lodging facility, in a squat or in another person’s home) in the three months preceding their death. Those who had experienced these situations in the past formed the category "formerly homeless". The study was based on statements made by the media, associations, hospitals, or relatives of the victims. As underlined by the epidemiologist who led the study, “The research work was not exhaustive, since it is very difficult to collect data.”[[1]](#footnote-1)

The study revealed that 91,8 % of the deceased were men. Their average age at the time of death was 55.1 years in the Paris region and 47.4 across the provinces. A significant portion of these deaths were due to aggression, suicides or accidents. A high number of cancers were also noted, especially of the respiratory tract (lungs, mouth, and ears, nose and throat). The epidemiologist cautioned that almost 40% of the causes of death were unknown.

In the Philippines, neither official statistical indicators nor hard figures were found regarding the impact on health, mortality and morbidity of inadequate housing and homelessness; nor do the country’s statistical figures lead to a closer look at housing issues.

Despite being reported as one of the most dynamic economies in the East Asia Region, the Philippines continue to experience widespread poverty. As of August 2015[[2]](#footnote-2), 26.3% of its estimated population of 100.98 million is estimated to live under the poverty line. In 2015, the National Housing and Urban Development Summit reported that the country’s housing backlog had reached almost 4 million households, and could increase to some 6.5 million by 2030. Approximately 30% of the country’s total population is reported to live in informal settlements, with some 2.4 million people or over 0.5 million families residing in informal settlements in Metro Manila[[3]](#footnote-3). To address the challenges posed by informal settlements and the growing number of Informal settler families (ISFs) in urban areas and pursuant to its Development Plan for 2011-2016, the government allocated PHP50 billion ($1.06B) to provide housing for 104,217 informal settler families in danger zones in Metro Manila. However, project implementation has produced limited results due to a myriad of policy and institutional issues that may be grouped into four areas: (1) land for housing, (2) financing, (3) governance, and (4) urban development.[[4]](#footnote-4)

In a December 2010 Discussion Paper by Marife M. Ballesteros of the Philippine Institute for Development Studies entitled, “Linking Poverty and the Environment: Evidence from Slums in Philippine Cities”, she lengthily discussed the inhuman conditions in which slum dwellers (informal settlers) live, including those who reside in dumpsite communities. She reported that among the top five causes of morbidity in Manila, four are respiratory ailments (including bronchitis, pneumonia and tuberculosis), with diarrhea constituting the fifth. The rate of occurrence per 100,000 population is higher in the slum areas than the average for the entire city. For instance, about 50% of the cases of bronchitis in the City occur among residents of the slum areas, although they represent only 37% of the population.[[5]](#footnote-5)

The lack of records and statistics on informal settlers can be attributed to inefficient or barely existing monitoring systems, reflecting the weak implementation of government policies and procedures.[[6]](#footnote-6)

As noted by Edita Abella Tan, professor emeritus at the University of the Philippines School of Economics, “These deprivations [serious inequality, malnutrition, diseases, non-enrollment and/or high incidence of drop out] are not reflected in the official report on poverty since the methodology used is not based on meeting basic needs. It uses a highly simplified construct to estimate the poverty line, which is too low to fully capture the extent and depth of the country’s poverty. (…) Life in the slum damages the dwellers’ very humanity—their dignity, their self-worth and their social identity. It also causes ill health. The degradation is exacerbated by the nature of employment of slum families that earn their living by scavenging from dumps and other sources of garbage or as itinerant vendors along streets where they face the risk of vehicular accidents and health hazards from air and noise pollution.”[[7]](#footnote-7)

The empirical observations of ATD Fourth World Philippines based on experience in two communities in Manila - Tulay[[8]](#footnote-8) and Manila North Cemetery[[9]](#footnote-9) - has shown that non-registration of births and consequently, for some, the lack of death certificates contributes to the random existence of relevant statistics. At times, it is only when a person dies and his/her relatives have to show a birth certificate in order to have a death certificate that the fact of his/her existence arises. In Tulay, one of the requirements for relocation to new housing sites was to submit a copy of the head of family’s birth certificate. Many of the 100 families relocated had to seek assistance from the International Movement to register their births.

In both communities, the majority of deaths known to the volunteers were due to physical violence (for adults), sickness and/or diseases caused by unhealthy conditions, coupled with lack of access to medical treatment either for administrative reasons or due to the family’s inability to pay (for all ages). The majority of adults in the Tulay community have at least once suffered from tuberculosis, and some on a recurring basis. In the Tulay community, families averaging 5 people have no access to toilets and bathrooms, and live in dwellings of 2x3 square meters and 1.2 to 1.5 meters high. In North Cemetery, some have been able to build toilets inside their family members’ mausoleums. The others take showers in the open and defecate in makeshift toilets. These conditions also exist in rural areas.

The morbidity and mortality of those who are literally homeless are also not accounted for. At worst, some of those who are born in the streets remain and die on the street without ever being identified. They are not included in the death registries simply because they never existed in the birth or any other records in the first place.

1. Explain how the protection of the right to life in your state's (region or area of work) constitution or human rights legislation extends to violations resulting from alleged failures of governments to adequately address homelessness or inadequate housing. Please provide examples of attempts to secure access to justice for such violations of the right to life and describe the result. Please provide references to any relevant cases or initiatives.

In France, human rights in relation to housing are not based on the right to life, but are nevertheless founded on the International Covenant on Civil and Political Rights (Article 17) as well as on the International Covenant on Economic, Social and Cultural Rights.

An important case was recently won based on the enshrinement of the spirit of Article 17 into the European Convention on Human Rights.

In the town of Herblay in Val d'Oise, France, 30 French traveler families lived in caravans, bungalows or wooden cabins in the woodlands called Trou-Poulet. Some had been there for over 30 years, and their children were enrolled in local schools. In April 2004, the mayor summoned the families to court, accusing them of "illegal occupation of a natural area which should be protected."

A support committee was set up with the participation of ATD Fourth World and other residents and associations in the department of Val d’Oise. Nevertheless, they were condemned by the court and had three months to vacate the premises or would be fined 70 € per day per person.

Faced with this threat, most families left Trou-Poulet and ended up wandering from place to place. For many of them, life became very difficult: they had no place to settle permanently, their family relationships were broken, they could not receive medical treatment regularly, their children’s schooling was disrupted, and their sources of income were fragile.

In 2007, with the support of ATD Fourth World, families of Trou-Poulet filed a petition with the European Court of Human Rights in Strasbourg[[10]](#footnote-10). After a long procedure, on 17 October 2013, the European Court made its first ruling, condemning the French government for not respecting Article 8 of the European Convention on Human Rights, which provides that, “*Everyone has the right to respect for his private and family life, his home and correspondence.*”[[11]](#footnote-11) It ruled that French courts should assess the impact of the eviction on the lives of the families and not only uphold the right of the municipality to evict, and should ensure that evictions did not lead to disproportionately negative consequences for the people concerned.

On April 28, 2016, the European Court issued a second decision and ordered, among other measures, (1) the French government to pay the families financial compensation for the material (pecuniary) and moral damages they had suffered; and (2) the authorities to ensure that “all applicants who have not yet been relocated can, given their vulnerability and their needs specific, be accompanied to their access to shelter, on a family plot or social housing according to their wishes, and have, in the meantime, sustainable accommodation without risk of expulsion."[[12]](#footnote-12) Ruling on the harm resulting from the violation, the Court noted, moreover, that under Article 46 of the Convention, the State has the obligation not just to pay the sums awarded but also to take individual measures and/or, where applicable, include the terms in its domestic legal order, to put an end to the violation and repair its consequences.

This was a victory not only for the families of Trou-Poulet. Throughout France and other European countries, judges now have to take into account the decisions of the European Court. In several rulings in 2014 and 2015, judges have refused for evictions to take place on the grounds of their disproportionate impact on those concerned.

Achieving this victory required a long struggle of 12 years and a great deal of support. The Trou-Poulet families and ATD Fourth World in particular received a very strong endorsement from the National Consultative Commission on Human Rights on its position.

There is a law in France known as the *Droit Au Logement Opposable* (DALO), which was promulgated on March 5, 2007, but it is based on Article 25 of the Universal Declaration of Human Rights, Article 11 of the International Covenant on Economic, Social and Cultural Rights, and Article 8 of the European Convention. DALO goes beyond the mere proclamation of the "right to decent and independent housing," for people and households considered priority cases (homeless or threatened with imminent eviction) may file amicable recourse or court appeals to obtain housing without delay. Moreover, the DALO law guarantees that people who are admitted in shelters will not be put back on the streets.[[13]](#footnote-13)

1. Has the disproportionate effect of homelessness and inadequate housing on particular groups (e.g. persons with disabilities, Indigenous peoples, women experiencing violence, etc.) been recognized by courts or human rights bodies in your country (region/area of work) as an issue of discrimination? Please provide examples.

ATD Fourth World has no information on this issue.

4. What measures does your organization promote or recommend to ensure access to justice for violations of the right to life resulting from homelessness and inadequate housing and to ensure that governments address these violations with appropriate urgency and commitment (eg: application of international human rights law; legal reform; institutional reform).

ATD Fourth World advocates the following measures to be taken by States, in the aim of achieving a sustainable development that leaves no one behind:

* Promote the participation and representation of disadvantaged population groups within local, national, and international bodies, and especially in relation to decisions that directly concern them. Ensuring the participation and representation of disadvantaged populations in public affairs is not only a moral obligation, but a fundamental human right set out in Article 25 of the Covenant on Civil and Political Rights;
* Strengthen civil registration procedures in order to improve the legal registration of people in precarious housing situations, so that homeless people have access to their rights;

Improve data collection and organize relevant surveys so that States can avail of the information necessary for the design of policies and programmes related to homeless people in keeping with their human rights obligations;

Enshrine in legislation the right to non-discrimination based on social status;

In keeping with the commitment made in the Preamble to Agenda 2030, focus “in particular on the needs of the poorest and most vulnerable” in developing housing programmes.

1. http://www.la-croix.com/Solidarite/En-France/Une-etude-inedite-sur-les-morts-de-la-rue-2013-10-09-1037289 [↑](#footnote-ref-1)
2. Philippines’ Statistical Figures - Population and Housing 2015 (<https://www.psa.gov.ph/content/highlights-philippine-population-2015-census-population>) [↑](#footnote-ref-2)
3. Metro Manila - also referred to as the National Capital Region is the seat of government and the most populous region of the country composed of 16 cities and one municipality (Pateros, as of 2016) per Presidential Decree No. 824 dated November 7, 1975. [↑](#footnote-ref-3)
4. National and Urban Development Housing Summit 2015 (<http://nathousingsummit.com/about-us-more.html>) [↑](#footnote-ref-4)
5. <http://dirp4.pids.gov.ph/ris/dps/pidsdps1033.pdf> [↑](#footnote-ref-5)
6. Estimating Informal Settlers in the Philippines October, 2010 (http://www.nscb.gov.ph/ncs/11thncs/papers/invited%20papers/ips-15/03\_estimating%20informal%20settlers%20in%20the%20philippines.pdf) [↑](#footnote-ref-6)
7. <http://opinion.inquirer.net/87655/solving-the-slum-problem> [↑](#footnote-ref-7)
8. Tulay community is an impoverished community living along an *estero* and under a bridge in Paco, Manila. [↑](#footnote-ref-8)
9. Manila North Cemetery (NC) is an impoverished community of tomb or mausoleum caretakers living inside the premises of a public cemetery either under the authority of the family members of the tombs they take care of, relatives of families already living in the cemetery for decades or homeless people who were “adopted” by the community living inside the cemetery. [↑](#footnote-ref-9)
10. File n° 27013/07 accepted by the Court on 12 September 2008. [↑](#footnote-ref-10)
11. <http://www.hri.org/docs/ECHR50.html#C.Art8> [↑](#footnote-ref-11)
12. <http://hudoc.echr.coe.int/eng?i=001-162215#{"itemid":["001-162215"]}> [↑](#footnote-ref-12)
13. See *Accès au logement social à Paris en 2009* [*Access to social housing in Paris in 2009]*, published November 2010, 80 pages. Reference : AP BROPA803/10. Language : French. [↑](#footnote-ref-13)