UNITED NATIONS HUMAN RIGHTS SPECIAL PROCEDURES
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COVID-19 Guidance Note:[1]

Protecting renters and mortgage payers

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Housing has become the frontline defense against the coronavirus. Home has rarely been more of a life or death situation.

As COVID-19 response interventions take effect, millions are being forced to live with less. For a great number of households across the world, the pandemic has meant job loss, reduced work hours, unpaid sick leave, or an inability to undertake informal sector work due to lockdowns. Both renters and homeowners, many of whom live month to month, are now experiencing unprecedented levels of anxiety and stress, and many are unable to pay their rent or mortgage and utility bills.

As a result, a great number of people are facing unprecedented economic insecurity and precarity putting at risk the very thing they are being told to do to help flatten the pandemic curve: stay home.

The pandemic has laid bare the pre-existing and vast structural inequalities in housing systems all over the world, characterized globally by rising housing unaffordability and the lack of available public housing stock. Actions taken now can help to address these deficiencies, while also serving to protect the right to housing of residents during the pandemic.

Moratoriums on evictions being implemented in many parts of the world offer a mid-term respite, but, post pandemic, these inequalities may become even more pronounced as lower- and middle-income households face on-going or even increased job insecurity, the risk of increased household debt, and the possibility of eviction and mortgage foreclosures. These outcomes may ultimately lead to homelessness.

States must ensure that all emergency measures taken to contain the virus and prevent individuals and families from losing their homes, lays the groundwork for the realization of the right to housing once the pandemic is over. This is an opportunity to ensure that moving forward housing systems are sustainable and resilient in the face of the next global crisis.

[1] This guidance note was developed through consultations with advocates from Asia, Africa, Europe, North America and Latin America. The guidance note may be updated incorporating good practices or lessons learned.

To this end, State policies to address rent and mortgage arrears must be based in three principles:

i) the burden of the response to the pandemic must be shared across society in a fair and equitable manner;

ii) renters and homeowners – whether in informal or formal markets – must not emerge from the pandemic overburdened with housing related debt as a result of financial and economic circumstances created by the pandemic; and

iii) the financial burden shouldered by banks, financial institutions, corporate landlords and other financial actors must be proportionate to their resources.

States must undertake the following specific measures immediately to ensure that all renters and homeowners can successfully "stay home", help flatten the pandemic curve and emerge from the crisis whole:

1. Prohibit evictions and the threat of eviction (eg. legal notice to evict) due to arrears of rental, mortgage or utility payments during the pandemic period and for a reasonable period thereafter. Evictions or foreclosures scheduled before the pandemic commenced must be suspended. Adequate monitoring mechanisms to ensure these prohibitions are adhered to must be established, including to prevent private actors from carrying out extrajudicial evictions.

2. Implement an immediate rent freeze, prohibiting any increases in rental costs including any adjustments for inflation, during the pandemic and for a reasonable period thereafter.

3. Prohibit the cancelling of rental contracts during the pandemic and for a reasonable period thereafter, except in the context of criminal behaviour, particularly where the behaviour will harm other tenants.

4. States must ensure housing affordability for tenants whose incomes decline as a result of COVID19. In this regard, for the duration of the pandemic and a reasonable period thereafter, States should legislate a mandatory rent re-calculation by housing providers that caps the rent obligation of tenants to 30 per cent of their monthly income, including any social benefits received. In States that have a system of housing benefits or social transfer payments to cover housing costs, the level of such benefits and eligibility criteria should be reviewed to ensure that tenants affected by the crisis do not have to pay more than 30 per cent of their monthly net income on housing costs.

5. A government compensation scheme for landlords could also be established to offset the difference between the pandemic rental cap rates and the rental rates that were in place prior to the pandemic. Compensation may be variable depending on the circumstances of the landlord. In this regard, as part of a larger stimulus package, States could establish a social solidarity fund – funded through taxation schemes and levies on revenues from corporate landlords – to provide compensation or assistance particularly to smaller landlords, conditional on their offering of reduced rental payments to tenants.

6. Tenants suffering a loss of household income due to COVID-19 and who are renting houses in informal settlements or other unregulated environments must also be protected against

eviction for any reason during the pandemic and for a reasonable time thereafter. Minimum income schemes and other social supports for residents of informal settlements could reduce the adverse impact of the crisis including rental arrangements in these settlements. [For more see Guidance Note on informal settlements.]

7. States must also adopt policies with respect to mortgage payments for populations who suffer financial setbacks during the pandemic. At a minimum it is imperative that States ensure Banks and other lenders re-negotiate mortgage payments with those affected by COVID-19, so that no more than 30 per cent of household income is devoted to debt servicing during the pandemic and for a reasonable time thereafter.

8. Policies must be established that provide rent and mortgage forgiveness for particularly vulnerable households whose situations are made worse by COVID-19, at least for the duration of the pandemic and a reasonable time thereafter. In this regard, some States have initiated time delimited mortgage payment moratoriums and individual landlords have offered rent forgiveness. Such policies ought to be legislated or decreed to provide universal protection and must extend beyond the pandemic period for a reasonable time.

9. States must ensure that no essential services are suspended or denied because of informality, or lack of payment, late payment, or underpayment of rent or of a mortgage, due to the virus and the pandemic response, including water, electricity, heating, phone, internet and tele-communications.

10. To offset lost revenues for those providing essential services, States could implement tax credits or other financial easing tools for landlords, utility providers and banks affected by tenants or mortgagees unable to pay their housing costs.

11. No tenant or homeowner should accrue unsustainable debt as a result of any of the proposed measures in this Guidance.

12. States must establish an oversight body to ensure that these measures are implemented in a manner consistent with human rights. For example, an independent consumer protection body could be established to protect the interests and rights of debtors and tenants in negotiations with various private and public financial institutions. This body should be entrusted with the mandate to provide free and impartial assistance for households and individuals in renegotiating rent payments and debt. It could also provide assistance with the implementation of national debt relief schemes for private households in a fair, non-bureaucratic and efficient manner. States can draw from relatively successful examples, such as the Icelandic Debtors' Ombudsman, established in August 2010 that assisted in reducing the unsustainable debt levels that many private households had accumulated in the aftermath of the Icelandic banking crisis.

13. In the situation of informal settlements, States could support residents of informal settlements to establish local human rights monitors responsible for enforcing fair, human rights compliant tenancy rules. These monitors could be associated with national human rights institutions or other independent tenant and consumer protection bodies which could refer cases of non-compliance to other enforcement bodies or to the justice system.