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## Purpose of the Shorthand

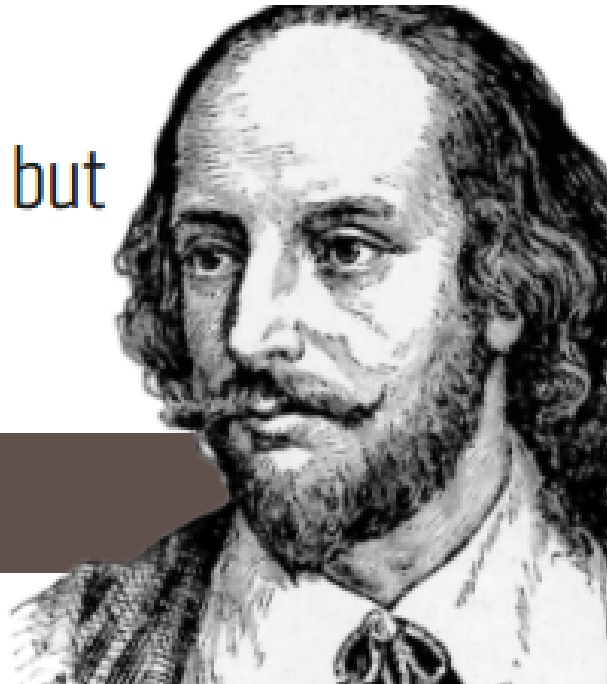
*The purpose of the UN-Habitat Human Rights Shorthand is to provide UN-Habitat staff with an overview of the United Nations human rights context within the purview of UN-Habitat's mandate. The Shorthand is not an exhaustive reference document, yet contains key references to human rights and urbanization, the Human Rights-Based Approach, the international human rights protection framework as well as agreed human rights-based language. This Shorthand also contains links for further reading and reference.*

## The United Nations and Human Rights

“

What is the city but  
the people?”

William Shakespeare



## The Pillars of the United Nations

The three pillars of peace and security, development, and human rights underlie all work of the United Nations: “Since the establishment of the United Nations in 1945, promoting and encouraging respect for human rights for all without distinction as to race, sex, language, or religion, as stipulated in the United Nations Charter, has been one of the fundamental goals of the organization. We are tasked with mainstreaming human rights within the United Nations, which means injecting a human rights perspective into all United Nations programmes. This is to ensure that **peace and security, development, and human rights** -- the three essential pillars of the United Nations system -- are interlinked and mutually reinforcing.”<sup>1</sup>

<sup>1</sup> <http://www.ohchr.org/EN/AboutUs/Pages/WhatWeDo.aspx>

While three pillars are most commonly referred to, the United Nations Charter outlines four principles within its Preamble:

1. To unite our strength to maintain international **peace and security**,
2. To reaffirm faith in fundamental **human rights**, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small
3. To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained [**Justice**]
4. To promote social progress and better standards of life in larger freedom [**Development**]

### **The 2030 Agenda for Sustainable Development<sup>2</sup>**

In September 2015, UN Member States adopted “Transforming Our World: The 2030 Agenda for Sustainable Development”, with 17 global Sustainable Development Goals (SDGs) and 169 corresponding targets. With the 2030 Agenda, UN Member States declared their vision of a world of universal respect for human rights and human dignity and to “leave no one behind” to ensure that everyone is benefitting from progress made, including people who are experiencing marginalization, discrimination and exclusion:

Para 19. “We reaffirm the importance of the **Universal Declaration of Human Rights**, as well as other international instruments relating to human rights and international law. We emphasize the **responsibilities of all States**, in conformity with the Charter of the United Nations, **to respect, protect and promote human rights and fundamental freedoms for all, without distinction** of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.”

Para 23. “**People who are vulnerable must be empowered**. Those whose needs are reflected in the Agenda include all children, youth, persons with disabilities (of whom more than 80% live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants. We resolve to take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism.”

Para 33. “We recognize that **sustainable urban development and management are crucial to the quality of life of our people**. We will work with local authorities and communities to renew and plan our cities and human settlements so as to foster community cohesion and personal security and to stimulate innovation and employment. We will reduce the negative impacts of urban activities and of chemicals which are hazardous for human health and the environment, including through the environmentally sound management and safe use of chemicals, the reduction and recycling of waste and more efficient use of water and energy. And we will work to minimize the impact of cities on the global climate system. We will also take account of population trends and projections in our

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<sup>2</sup> <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

national, rural and urban development strategies and policies. We look forward to the upcoming United Nations Conference on Housing and Sustainable Urban Development in Quito, Ecuador.”




### Sustainable Development Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable

**SDG 11 Targets which are singled out due to their explicit human rights dimensions include:**

11.1 By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.

1.2 By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons.

11.3 By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries.

11.7 By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities.

11.c Support least developed countries, including through financial and technical assistance, in building sustainable and resilient buildings utilizing local materials.

*“The Outcome Document of the UN Summit on the Post-2015 Development Agenda, and the seventeen Sustainable Development Goals are a manifesto for fighting poverty, inequality, and*

*environmental degradation. The implications of the new agenda for our work are clear. Its integrated nature requires us to prioritize team actions which pull together the best of our ideas, expertise, institutional arrangements, and resources to help accelerate results across the range of inter-linked goals. The call to “leave no one behind” demands that we identify and tackle the deep-rooted **determinants of exclusion to reach “the last mile”.** Much more effort and investment will be needed in data and shared knowledge, and in linking countries and communities to learn from each other.”*

Helen Clark, Administrator of the United Nations Development Programme - On the outcome of the 2030 Agenda for Sustainable Development 7.10.2015.

### Disaggregated Data<sup>3</sup>

Disaggregated data may reveal disparities between different groups and perhaps also reveal discrimination faced by some groups in enjoying their human rights. Therefore, it is important that development projects plan to disaggregate data in order to make it possible to fully reveal the extent of inequalities, and to measure progress related to fulfilment of the enjoyment of human rights for persons and groups in situations of vulnerability. The Post 2030 Agenda and Sustainable Development Goals focus attention on the imperative to ‘leave no one behind’, and therefore indicators to measure progress towards the SDGs must include disaggregation and a clear focus on the most marginalized members of society:

Para. 48: “Indicators are being developed to assist this work. Quality, accessible, timely and reliable disaggregated data will be needed to help with the measurement of progress and to ensure that no one is left behind. Such data is key to decision-making. Data and information from existing reporting mechanisms should be used where possible. [...]”

Data should be disaggregated by all grounds of discrimination prohibited by international human rights law, as enshrined in the 1948 Universal Declaration of Human Rights and subsequently elaborated upon by international human rights mechanisms, i.e. disaggregated by gender, age, race, ethnicity, income, migration status, disability or other characteristics relating to grounds of discrimination. Data disaggregation is an obligation, not a desirable add-on: the collection or disaggregation of data for specific populations forms a part of existing State obligations under international human rights law.

<sup>3</sup> <http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

## Urbanization and Human Rights



Human Rights is at the heart of the New Urban Agenda. We at UN-Habitat, view urbanization as the engine of development, as a transformative force which can lead the world to overcome challenges related to sustainability, climate change, poverty, exclusion and inequality. With an emphasis on urban legislation, urban planning and urban economy and municipal finances, we have developed an integrated framework for planned urbanization - the "Three-Pronged approach" – designed to better respond to the challenges and harness the opportunities of cities and human settlements. Within this context, our 'Housing at the Centre' approach places the right to adequate housing at the centre of national and local urban agendas. 'Housing at the Centre' aims at shifting the focus from simply building houses to a holistic framework for housing development, orchestrated with urban planning practice and placing people and human rights at the forefront of sustainable urban development."

**Dr. Joan Clos**

Under-Secretary-General, United Nations  
Executive Director, UN-Habitat



### The New Urban Agenda<sup>4</sup>

Habitat III is the United Nations Conference on Housing and Sustainable Urban Development, to take place in Quito, Ecuador, from 17-20 October, 2016. Habitat III offers Member States an opportunity to discuss a New Urban Agenda that will focus on policies and strategies that can result in effectively harnessing the power and forces behind urbanization.

The many opportunities of urbanization today could be the basis for harnessing its transformative force and activating a pattern of urban growth that could positively impact other spheres of national development. Eight guiding principles could steer the vision of such a new urban agenda and induce transformative change, among which the following relate to human rights. The UN High Level Committee on Programmes recommendations towards the New Urban Agenda makes, inter alia, the following recommendations:

<sup>4</sup> High Level Committee on Programmes: Twenty-Ninth Session; Agenda Item 1: Urbanization and Sustainable Development; Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda

“(b) Promoting a new urbanization model that contains **mechanisms and procedures that respect, protect and promote human rights** and social justice.

(c) Promoting equitable urban development and inclusive urban growth, which entails bringing **equality and non-discrimination considerations, including gender equality, to the centre of urban development.**

(e) Promoting the empowerment of civil society, expanding democratic participation and reinforcing multi-stakeholder partnerships and collaboration. “

“16. **Eight guiding principles** can steer the vision of such a “new urban agenda” towards transformative sustainable development: **universality, human rights, equity, integration, democratic participation, environmental sustainability, learning and sharing of knowledge, and data revolution.**”

“2. **Promoting a new urbanization model that contains mechanisms and procedures that respect, protect and promote human rights and the rule of law:** Ensure that **both the desirable outcome** (sustainable cities and other human settlements) **and the process** to achieve this outcome **take account of the content and intent of international human rights instruments.**”

## Housing at the Centre<sup>5</sup>

Towards the Habitat III Conference 2016, UN-Habitat proposes as one of its recommendations the promotion of sustainable cities for everyone through positioning “Housing at the Centre” of national and local urban agendas, and at the centre of cities. The “Housing at the Centre” approach aims to, inter alia:

- Shift the focus from simply building houses to a holistic framework for housing development;
- Take into account the socio-developmental dimensions of housing;
- Place people and human rights at the forefront of sustainable urban development;
- Acknowledge that the Human Rights-Based Approach adds value to urban planning by legitimizing prioritization of the interests of the most marginalized in society and their participation in the urban planning process.<sup>6</sup>

In order to place housing at the centre of national urban development, the following fundamental guiding principles should be considered:

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<sup>5</sup> <http://unhabitat.org/affordable-housing-should-be-at-the-centre-of-cities-joan-clos/>

<sup>6</sup> UN-Habitat (2015), *Housing at the Centre of the New Urban Agenda – UN-Habitat Position Paper*. In its resolution HSP/GC/25/L.6, the 25th Session of the Governing Council of UN-Habitat “Takes note of the ‘Housing at the Centre approach’, which positions housing at the centre of national urban policies and of cities, and encourages the United Nations Human Settlements Programme and member States to consider the implementation of the Global Housing Strategy, as appropriate, including through the design of tools and mechanisms to promote inclusive housing finance at the national and local levels to bridge the housing gap and to contribute to the progressive realization of the right to adequate housing for all.”

- **Housing is inseparable from urbanization.** Housing policies and strategies at national and local levels should therefore be integrated into urban development policies and orchestrated with economic and social policies.
- **Housing is a socioeconomic development imperative.** Housing is a true support for survival making a substantial and prolonged contribution to socioeconomic development of people and cities. While housing provision is important for improving livelihoods, standards of living and welfare, it also accounts for a significant share of wealth and resources that can be an important source of economic growth, employment generation and a major component of the economic development agenda.
- **Systemic reforms, strong states and long-term policy and finance are needed to enable access to adequate housing for all.** National and local authorities should reassume a leading role in responding to housing needs and affordability constraints especially of the poorest segments of the population, being at the helm of formulating, regulating, implementing and monitoring policies. Finance for housing should be established and increased.
- **A simultaneous twin-track approach with curative (slum upgrading) and preventive (new provision) housing policies and programmes should be promoted** ensuring participatory and coordinated efforts of national and local governments, development finance institutions, the private sector and civil society.
- **Housing and slum upgrading policies should be accompanied by national strategies** with a detailed plan of action, time frame, and provisions for ensuring that resources are available to implement the actions proposed as well as indicators for monitoring and evaluating. These processes need to be guided by the human rights principles of transparency and accountability.
- **Human rights principles and standards are of outstanding relevance for urban development to lead to socially sustainable and inclusive cities.** Targeting the most poor and groups in vulnerable conditions is crucial if the situation is not to deteriorate, and interventions cannot depart from addressing the root causes that prevent their access to adequate housing.

## The Human Rights-Based Approach

### The UN Common Understanding on the Human Rights-Based Approach (2003)<sup>7</sup>

The UN Common Understanding of a Human Rights-Based Approach to Development Cooperation (the Common Understanding) was endorsed by the United Nations Development Group (UNDG) in 2003. The purpose behind developing a common understanding was to ensure that UN agencies, funds and programmes apply a consistent Human Rights-Based Approach to common programming processes at global and regional levels, and especially at the country level in relation to the UNDAF. This was made in three key points:

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<sup>7</sup> <http://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>



1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and of 'rights-holders' to claim their rights.

### Human Rights Standards<sup>8</sup>

Human rights standards define the core content of human rights (e.g. the right to adequate housing, the right to education, the right to water, the right to food, etc.). In dealing with economic, social and cultural rights, it is common to qualify the human rights standard by referring to four key dimensions, often referred to as AAAQ:

*Availability:* Facilities, goods and services need to be available in sufficient quantities and equipped with the necessities required to function.

*Accessibility:* Facilities, goods and services need to be accessible for all sections of the population, especially groups in vulnerable situations.

*Affordability:* Facilities, goods and services must be affordable and expenses must not disproportionately burden poorer households. This also requires the removal of administrative barriers that can prevent the poor from accessing facilities, goods and services.

*Quality:* Facilities, goods and services need to be relevant, culturally appropriate and of acceptable quality.

### Human Rights Principles<sup>9</sup>

There are six principles that underline and explain human rights. The principles should guide all development cooperation and programming in all sectors and in all phases of the programming process:

*Universality and Inalienability:* Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The universality of human rights is encompassed in the words of Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

*Indivisibility:* Human rights are indivisible. Whether they relate to civil, cultural, economic, political or social issues, human rights are inherent to the dignity of every human person. Consequently, all

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<sup>8</sup> UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat Staff on Promotion and Protection of Human Rights.

<sup>9</sup> UNFPA: <http://www.unfpa.org/resources/human-rights-principles>

human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education.

*Interdependence and Interrelatedness:* Human rights are interdependent and interrelated. Each one contributes to the realization of a person's human dignity through the satisfaction of his or her developmental, physical, psychological and spiritual needs. The fulfilment of one right often depends, wholly or in part, upon the fulfilment of others. For instance, fulfilment of the right to health may depend, in certain circumstances, on fulfilment of the right to development, to education or to information.

*Equality and Non-discrimination:* All individuals are equal as human beings and by virtue of the inherent dignity of each human person. No one, therefore, should suffer discrimination on the basis of race, colour, ethnicity, gender, age, language, sexual orientation, religion, political or other opinion, national, social or geographical origin, disability, property, birth or other status as established by human rights standards.

*Participation and Inclusion:* All people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being. Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous peoples and other identified groups.

*Accountability and Rule of Law:* States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in international human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. Individuals, the media, civil society and the international community play important roles in holding governments accountable for their obligation to uphold human rights.

Transparency and accountability are key principles of a human rights-based approach to development that are also integral to successful anti-corruption strategies. Some of the measures that can enhance transparency and accountability and contribute to sustainable anti-corruption measures are the adoption of laws ensuring the public's access to information on governmental processes, decisions and policies as well as institutional reforms which strengthen transparency and accountability, for example through reform in the operating procedures and decision-making processes of institutions, including elected institutions and the institutions responsible for the delivery of services.<sup>10</sup>

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<sup>10</sup> <http://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/AntiCorruption.aspx>

## Rights-Holders and Claims-Holders<sup>11</sup>

Given the universal nature of human rights, every individual is a rights-holder and entitled to the same rights without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Rights-holders are persons holding legitimate claims toward duty-bearers.

However, a distinction can be made between rights-holders and claims-holders.

Rights-holder is the most common term within the UN system. On occasion, UN agencies, funds and programmes use claims-holders and rights-holders interchangeably. For the purposes of current UN-Habitat work, the term 'rights-holders' will be used for purposes of consistency with the terminology used by OHCHR and other UN Agencies, Funds and Programmes.

## Duty-Bearers<sup>12</sup>

Duty-bearers are primarily State actors and institutions that have obligations to fulfil with respect to the entitlements and claims of rights-holders. The HRBA focuses on the capacity of the State at all levels (all branches of the State and all sectors of government, at the national, provincial, municipal level) to meet its obligations to respect, protect and fulfil human rights. While the State is the most common duty-bearer under International Law, human rights obligations can also attach to private individuals, international organizations and other non-State actors.

## The duties to respect, protect and fulfill human rights<sup>13</sup>

Duties or Obligations in Relation to Human Rights International Human Rights Law refers to the body of international law designed to promote and protect human rights at the national, regional and international levels. International human rights law is predominantly comprised of treaties or agreements between states and is intended to have binding legal effect between the parties in agreement.

In International Human Rights Law, four types of duties or obligations are recognized:

- **The Duty/Obligation to Respect** requires the duty-bearer to refrain from interfering directly or indirectly with the enjoyment of the right.
- **The Duty/Obligation to Protect** requires the duty-bearer to take measures that prevent third parties from interfering with the enjoyment of the right.

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<sup>11</sup> UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat Staff on Promotion and Protection of Human Rights.

<sup>12</sup> UN-Habitat (2015), *Programmatic Guidance Note for UN-Habitat Staff on the Promotion and Protection of Human Rights*.

<sup>13</sup> <http://unhabitat.org/books/programmatic-guidance-note-for-un-habitat-staff-promotion-and-protection-of-human-rights/>

- **The Duty/Obligation to Fulfill (Facilitate)** requires duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right.
- **The Duty/Obligation to Fulfill (Provide)** requires duty-bearers to directly provide assistance or services for the realization of the right.

## Human Rights Law

### Charter, convention, declaration, optional protocol and treaty

*Treaty:* A 'treaty' is a formally concluded and ratified agreement between States. The term is used generically to refer to instruments binding at international law, concluded between international entities (States or organizations). Under the Vienna Conventions on the Law of Treaties, a treaty must be (1) a binding instrument, which means that the contracting parties intended to create legal rights and duties; (2) concluded by states or international organizations with treaty-making power; (3) governed by international law and (4) in writing.

*Charter:* The term 'charter' is used for particularly formal and solemn instruments, such as the treaty founding an international organization like the United Nations ('The Charter of the United Nations').

*Convention:* A 'convention' is a formal agreement between States. The generic term 'convention' is thus synonymous with the generic term 'treaty'. Conventions are normally open for participation by the international community as a whole, or by a large number of States. Usually the instruments negotiated under the auspices of an international organization are entitled conventions (e.g. the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in 1989).

*Declaration:* The term 'declaration' is used for various international instruments. International human rights declarations are not legally binding; the term is often deliberately chosen to indicate that the parties do not intend to create binding obligations but merely want to declare certain aspirations, e.g. the Declaration on the Right to Development. However, while the 1948 Universal Declaration of Human Rights for example was not originally intended to have binding force, its provisions have since gained binding character as customary law.

*Optional Protocol:* The term 'protocol' is used for an additional legal instrument that complements and add to a treaty. A protocol may be on any topic relevant to the original treaty and is used either to further address something in the original treaty, address a new or emerging concern or add a procedure for the operation and enforcement of the treaty —such as adding an individual complaints procedure. A protocol is 'optional' because it is not automatically binding on States that have already ratified the original treaty; States must independently ratify or accede to a protocol.<sup>14</sup>

<sup>14</sup> *Introduction to the Convention on the Rights of the Child, Definition of Key Terms, UNICEF*  
(<http://www.unicef.org/crc/files/Definitions.pdf>) These definitions are adapted from *The Concise Oxford Dictionary of*

## Limitations, derogations and reservations

In accordance with international human rights law there are essentially three ways in which the State may limit or restrict the scope of its obligations:

- I. Express limitations to rights
- II. Derogations from rights
- III. Reservations to treaties

Derogations are only permitted in exceptional circumstances, when the “life of the nation is at stake”, while limitations to rights may be made to serve certain legitimate aims. Reservations may be made at the time of ratification/accession to the treaty.<sup>15</sup>

### Hard Law

Hard law is that which is contained in a legally binding treaty or convention. For these international treaties and conventions to be legally binding for a State, they must first be signed and ratified by the State. The State in question must then pass the convention through its national legislature. Only then is the convention ratified and only then are the laws contained in it legally enforceable. Once a state has ratified a convention it is legally obligated to uphold the right contained in it, and the citizens of that state can legally claim their rights.

### Soft Law

By contrast, rights which are not contained in a legally binding treaty or convention can be considered as soft law. There is a widerange of UN mechanisms that promote and apply these rights, but they are not legally binding and a State is not legally obligated to fulfil them. These rights hold varying levels of normative strength. For example, rights contained in the Universal Declaration of Human Rights, whilst not legally binding, have become universally accepted and have very strong normative value. As a result, they are often enshrined in national or regional legislature, but are still not internationally legally binding. Other rights, such as the right to development, may have been promoted in UN Declarations or General Comments, but have not reached the same level of normative force.

### The right to adequate housing

The right to adequate housing is recognized in international human rights law as a component of the right to an adequate standard of living, enshrined in both the Universal Declaration of Human Rights (UDHR, adopted in 1948) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, adopted in 1966).

**Article 11** of the International Covenant on Economic, Social and Cultural Rights states: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for

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*Current English (8th edition), Clarendon Press, Oxford, 1990 and United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://treaties.un.org/doc/source/publications/THB/English.pdf>*

<sup>15</sup> <http://indicators.ohchr.org/>

himself and his 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.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is widely considered as the central instrument for the protection of the right to adequate housing, and has been ratified by and therefore legally binding for a significant majority of the world's States.<sup>16</sup>

Protection against forced evictions is a key element of the right to adequate housing.

The General Comments of the Committee on Economic, Social and Cultural Rights (CESCR), and in particular General Comments No. 4 on the Right to Adequate Housing and No. 7 on Forced Evictions, provide authoritative – soft law - guidance on the right to adequate housing and the prohibition of unlawful forced evictions.

For housing to be adequate, it must, at a minimum, meet the following criteria:

- **Security of tenure:** housing is not adequate if its occupants do not have a degree of tenure security, which guarantees legal protection against forced evictions, harassment and other threats.
- **Availability of services, materials, facilities and infrastructure:** housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.
- **Affordability:** housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights.
- **Habitability:** housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- **Accessibility:** housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
- **Location:** housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.
- **Cultural adequacy:** housing is not adequate if it does not respect and take into account the expression of cultural identity.

### The right to water

Water has not been explicitly recognized as a self-standing human right in international treaties. However, the CESCR has underlined in its General Comment No. 15 that the right to water is part of the right to an adequate standard of living. The comment defines the right to water as the right of

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<sup>16</sup> For the status of ratification of the ICESCR of various States, visit <http://indicators.ohchr.org/>.

everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses.<sup>17</sup>

### Progressive Realization

Under the International Covenant on Economic, Social and Cultural Rights, States have the obligation to progressively realize the right to adequate housing. While not all aspects of the right to adequate housing can or may be realized immediately, States must, at a minimum, show that they are making every possible effort, within available resources, to better protect and promote this right. Available resources refer to those existing within a State as well as those available from the international community through international cooperation and assistance, as outlined in articles 2 (1), 11 and 23 of the Covenant. In other words, the Covenant acknowledges that States have resource constraints and that it may take time to ensure the right to adequate housing to everyone. Some components of the right to adequate housing are, therefore, deemed subject to progressive realization.

However, obligations such as relates to the principle of non-discrimination are not subject to progressive realization, as is the case with the prohibition on forced evictions. There is also an immediate obligation to take steps, which should be concrete, deliberate and targeted, to fulfil the right to adequate housing. Each State should guarantee at least minimum essential levels of this right.<sup>18</sup>

### Human Rights-Based Language

#### Equality and Equity<sup>19</sup>

*Equality* and *equity* are two different concepts increasingly used without recognition of the significant differences between them. Equality is a human rights principle meaning 'the same', while equity is a concept of justice, which means 'fair'. There is no reference to equity in the United Nations Charter or in the Universal Declaration of Human Rights.

The difference between equality and equity can be illustrated with the following example: two individuals who do the same job and produce the same results should receive an equal salary, whilst individuals who do different jobs which require different skills should receive different salaries for reasons of fairness or justice. In other words, they should receive an equitable pay. Whilst in the first scenario a scientific comparison can be made, this is not possible in the second.

The preferred terminology within the United Nations, according to CEDAW General Recommendation 28, is equality, rather than equity.<sup>20</sup> This is shown in Operative Paragraph 22:

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<sup>17</sup> Further reading on the right to water and sanitation can be derived from OHCHR's Factsheet No. 35 on The Right to Water, and the Handbook Volume on Human Rights and Urban Basic Services.

<sup>18</sup> OHCHR/UN-Habitat, Fact Sheet on the Right to Adequate Housing, pp. 30-31

<sup>19</sup> UN-Habitat (2015), Programmatic Guidance Note for UN-Habitat Staff on Promotion and Protection of Human Rights.

*22. The principle of equality between men and women, or gender equality, entails the concept that all human beings, regardless of sex, are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. States parties are called upon to use exclusively the concepts of equality of women and men or gender equality and not to use the concept of gender equity in implementing their obligations under the Convention. The latter concept is used in some jurisdictions to refer to fair treatment of women and men, according to their respective needs. This may include equal treatment or treatment that is different, but which is considered equivalent in terms of rights, benefits, obligations and opportunities.*

This recommendation was made specifically with respect to the rights of women, yet represents the spirit of the United Nations in relation to the important differences between the two terms.

### **People in Situations of Vulnerability**

While the HRBA maintains an explicit focus on disadvantaged, marginalized and excluded groups, the UN-Habitat preferred language is ‘people in situations of vulnerability’. This distinction is made because the term ‘vulnerable groups’ implies that the people themselves are inherently disadvantaged. The use of this term reinforces traditional views of these groups as being ‘weaker’ and thus disempowers them. By contrast, ‘people in situations of vulnerability’ are not inherently vulnerable and can be uplifted from of these situations.

Alternatively: “Using the phrase “people in situations of vulnerability” demarcates that vulnerability is determined through an analysis of circumstances or factors in a specific context which makes an individual or a community at risk of human rights violation/s. Vulnerability can change due to context and over time, and no person/group is ‘inherently’ vulnerable.

People in situations of vulnerability may include, but is not limited to, the poor, residents in informal settlements/slums, homeless persons, persons facing - or at risk of facing - forced eviction from their place of habitual residence, children, youth, elderly, persons with disabilities, refugees, migrants and displaced persons, indigenous peoples, persons with HIV/AIDS, people with diverse sexual orientations, as well as women in all the mentioned categories.

Which groups that might encounter obstacles in enjoying their human rights in the city is different depending on context, country, region, city, neighbourhood etc. It is therefore necessary to understand the specific context one is operating in, and there is no set list of persons in situations of vulnerability.

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<sup>20</sup> UN Committee the Elimination of Discrimination against Women (2010), *General Recommendation No. 28; The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*



## Annex

### Sources of the Right to Adequate Housing

- **Istanbul Declaration (paragraph 8) and the Habitat Agenda (paragraph 39)**

"We reaffirm our commitment to the full and progressive realization of the right to adequate housing, as provided by in international instruments"

- **The Universal Declaration of Human Rights (1948), stipulates in its Article 25**

"Everyone has the right to a standard of living adequate for the health and wellbeing 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."

- **International Covenant on Economic Social and Cultural Rights - ICESCR (1966), Article 11(1)**

"The State parties to the ... [ICESCR] recognize the right of everyone to an adequate standard of living for himself [herself] and for 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 realisation of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

- **United Nations Committee on Economic, Social and Cultural Rights, 13 December 1991, General Comment 4**

The Right to Adequate Housing (Art.11 (1) is carefully defined, interpreting the legal principle contained in Article 11(1) of the ICESCR.

- **Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination**

"In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and eliminate racial discrimination in all of its forma and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin to equality before the law, notability in the enjoyment of the following rights:...(e) in particular...(iii) the right to housing."

- **United Nations Commission on Human Rights resolutions 2000/9, 2001/28, 2002/21, 2003/27, 2004/21 on adequate housing as a component of an adequate standard of living**

In 2001, the United Nations Commission on Human Rights adopted its resolution 2001/28, entitled "Adequate housing as a component of the right to an adequate standard of living." In this resolution, the Commission called upon States to, inter alia – " ... give full effect to housing rights, including through domestic development policies at the appropriate level of government and with international assistance and cooperation, giving particular attention to the individuals, most often women and children, and communities living in extreme poverty, and to security of tenure."

## Useful Links

- The International Covenant on Economic, Social and Cultural Rights (ICESCR):  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- Office of the High Commissioner for Human Rights:  
<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>
- OHCHR Dashboard for ratification status by treaty and country:  
<http://indicators.ohchr.org/>
- OHCHR Right to Adequate Housing Tool Kit:  
<http://www.ohchr.org/EN/Issues/Housing/toolkit/Pages/RighttoAdequateHousingToolkit.aspx>
- Universal Periodic Review (UPR):  
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
- UNDG Human Rights Working Group:  
<https://undg.org/home/undg-mechanisms/undg-hrm/>
- UNDG Human Rights Guidance and Policy:  
<https://undg.org/home/guidance-policies/country-programming-principles/human-rights/>
- UN-Habitat and Human Rights:  
<http://unhabitat.org/urban-themes/human-rights/>
- UN-Habitat Human Rights Intranet Page:  
<http://habnet.unhabitat.org/service/human-rights>
- The Right to Adequate Housing Factsheet  
[http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)
- Forced Evictions Factsheet  
<http://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>
- Programmatic Guidance Note for UN-Habitat Staff  
<http://unhabitat.org/books/programmatic-guidance-note-for-un-habitat-staff-promotion-and-protection-of-human-rights/>