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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2019]

* Issued as received, in the language(s) of submission only.



Policies to Reaffirm and Protect the Right to Adequate Housing

I. Introduction

The right to adequate housing is often a forgotten human right. States frequently violate this right, causing millions of people worldwide to suffer from homelessness. People have been forced out of their homes due to the growing lack of affordable housing.¹ This market failure is the result from the complicity of States acquiescing to the commoditization of housing, allowing housing prices to skyrocket, leading to housing displacement, and homelessness.²

International human rights law recognizes the right to adequate housing. The primary instrument which enshrines the right to adequate housing is the International Covenant on Economic, Social and Cultural Rights (ICESCR).³ The right further encompasses affordability in General Comment 4.⁴ In 2017, the Special Rapporteur on adequate housing issued a report on the financialization of housing and emphasized the growth of the financial system's movements into States' housing stocks, which has increased the commodification of housing, grown inequality between the rich and poor, raised housing prices, increased vacancy due to speculation, and has resulted in wealth flowing out of the communities where these homes exist.⁵ And with the lack of affordable housing being one of the leading causes of homelessness even for many wealthy States, the need to guarantee this right is critical.⁶ The Special Rapporteur has recommended States and Local governments use a full range of policy tools to re-establish housing as a social good.⁷ This statement from Human Rights Advocates (HRA) will highlight examples of violations of the right to adequate housing and address policy measures that have made strides in the fulfillment of the right to adequate housing.

II. Vacancy taxes

Housing vacancy in cities where people experience homelessness is a sign of housing allocation inefficiency and market failure.⁸ Growing speculative investment in housing increase vacancies and local welfare costs.⁹ Vacancy taxes maximize the housing stock and use by levying a tax if housing is left vacant for a period of time. Receipts should then be directed towards affordable housing initiatives. These schemes are not only proportionate and effective tools in rapidly increasing available housing and funds for affordable housing, but also serve to remind the public that housing is a right not a privilege. The following are examples of successful implementations of vacancy taxes.

¹ Jonathan Barrett, *Vacant Property Taxes and the Human Right to Adequate Housing*, 20 J. Austl. Tax'n 123, 146 (2018).

² Raquel Rolnik (Special Rapporteur), *Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, U.N. Doc. A/67/286 (Aug. 10, 2012).

³ International Covenant on Economic, Social and Cultural Rights, art. 11 (1976), 999 UNTS 3.

⁴ Comm. on Econ., Social and Cultural Rights, *General Comment 4 (The right to adequate housing)*, ¶8(c), U.N. Doc. E/1992/23 (1991).

⁵ Leilani Farha (Special Rapporteur), *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, U.N. Doc. A/HRC/34/51 (Jan. 18, 2017); Jack Favilukis & Stijn Van Nieuwerburgh, *Out-of-Town Home Buyers and City Welfare* (Oct. 2, 2018), haas.berkeley.edu/RealEstate/Research/.../4-Out-of-Town%20Buyers.pdf.

⁶ Report of the H.R.C., *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context*, Raquel Rolnik, on her mission to the United States of America (Oct. 22 – Nov. 8, 2009), U.N. Doc. A/HRC/13/20/Add.4 (Feb. 12, 2010).

⁷ Farha, *supra* note 5, ¶77(b).

⁸ Barrett, *supra* note 1.

⁹ Favilukis, *supra* note 5.

A. France

In reaction to high vacancy, in 1999 France implemented a tax on empty accommodations (TLV). The TLV applies to vacant properties in areas where housing demand outpaced supply.¹⁰ The tax applied a 12.5% rate of the notional annual rental costs for the first year of vacancy, then rose to 25% for subsequent years. A recent paper suggests this tax succeeded in its goals.¹¹ Analysis of the years following the implementation of the tax saw decreases in short and long-term vacancy rates.¹²

B. Vancouver, Canada

The people of Vancouver, Canada are experiencing unaffordable housing, overcapacity at shelters, and a rise in homelessness.¹³ Thus with an excess of housing, the city implemented a 1% tax on the assessed value of empty and under-used properties.¹⁴ Even though the tax is largely dependent on owners self-reporting their vacant homes, receipts for its first year of implementation has exceeded expectations.¹⁵

Through the tax Vancouver has collected over \$38M in receipts. Though housing prices have remained high, with less than a third going to administer the tax, a large portion was pre-allocated specifically for affordable housing initiatives.¹⁶ Together the tax and expenditure of earmarked funds are likely to yield the intended results.¹⁷

III. Cooperatively Increasing Housing

Cooperation between public and private sectors are critical for many of these polices to succeed. The following are examples of these types of partnerships succeeding.

A. Scotland, the United Kingdom of Great Britain and Northern Ireland

Scotland has implemented a Mortgage to Rent Scheme which is set up as a tool of last resort. Households in danger of being foreclosed upon can be purchased by a non-profit “Registered Social Landlord” (RSL) then rented back to residents.¹⁸ Keeping housing with the RSL increases the affordable public housing stock, ensures security for an individual in their home, keeps value largely within the community, and maintains housing as a human right.¹⁹

B. California, United States of America

San Francisco and Oakland, two Californian localities, have been rightly criticized for allowing the condition of the informal settlements dispersed around their cities to exist. Citing

¹⁰ See Segú, *infra* note 11; See also Barrett, *supra* note 1, at 134.

¹¹ Mariona Segú & Benjamin Vignolles, *Taxing Vacant Dwellings: Can fiscal policy reduce vacancy?* (Munich Personal RePEc Archive, Working Paper No. 85508, 2018), <https://mpra.ub.uni-muenchen.de/85508/>.

¹² *Id.*

¹³ Penny Gurstein, et al., *No Vacancy: High Rent. Low Vacancy. Growing Homelessness*, Union Gospel Mission (2018), <https://www.ugm.ca/wp-content/uploads/2018/10/NoVacancy-2018.pdf>.

¹⁴ Vacancy Tax By-Law No.11674, 2016 Vancouver, B.C., <https://vancouver.ca/your-government/vacancy-tax-by-law.aspx>.

¹⁵ Simon Little, *Vancouver collects \$21M from empty homes tax, expects \$38M total for first year* (Nov. 30, 2018), <https://globalnews.ca/news/4714211/vancouver-collects-21m-from-empty-homes-tax-expects-38m-total-for-first-year/>.

¹⁶ Naoibh O’Connor, *Here’s How Empty Homes Tax revenue will be spent* (June 21, 2018) <https://www.vancourier.com/real-estate/here-s-how-empty-homes-tax-revenue-will-be-spent-1.23343920>.

¹⁷ Barrett, *supra* note 1.

¹⁸ Eric S. Tars & Caitlin Egleson, *Great Scot!: The Scottish Plan to End Homelessness and Lessons for the Housing Rights Movement in the United States*, 16 *Geo. J. Poverty Law & Pol’y* 187 (2009).

¹⁹ Scottish Housing Regulator, *Annual Performance: Report and Accounts 2017/2018* (2018), <https://www.scottishhousingregulator.gov.uk/sites/default/files/publications/Scottish%20Housing%20Regulator%20-%20Annual%20Report%20and%20Accounts%202017-18.pdf>.

the lack of basic necessities, the Special Rapporteur described what she saw as cruel and inhuman treatment.²⁰ Furthermore, in 2018 the U.S. Department of Housing and Urban Development produced a point-in-time report finding California had the highest rate of people experiencing homelessness per 100,000 people and named both localities as cities with the most unsheltered people countrywide.²¹

California law obligates localities to demonstrate plans to meet existing and projected housing needs of everyone.²² This has led many localities to use “inclusionary zoning” (IZ) as a tool to require developers of new multi-unit residential developments to set aside a percentage of units at a cost below the going market rate as “affordable housing.”²³ While the efficacy of IZ is inconclusive and reevaluation is needed, HRA supports the bottom-up approach of subnational governments necessitating their localities to experiment and implement with policies that will guarantee the right to housing.

IV. Conclusion

The commodification of housing has caused human suffering and resulted in widespread human rights violations. President Xi Jinping of China’s statement that “homes are for living in, not for speculation” should be adopted by all States.²⁴ However, this sentiment needs to be followed up by action. HRA recommends vacancy taxes, mortgage schemes, and bottom-up local government approaches to guarantee the enforcement of the right to adequate housing.

V. Recommendations

1. HRA urges the Special Rapporteur to:
 - a. Further compile and help States implement policies encouraging the de-commodification of housing while increasing affordable housing; and
 - b. Further study States’ domestic policies’ roles in the commodification of housing and their impact domestically and internationally.
2. HRA urges States to:

Study, implement, and experiment with policies that guarantee housing as a human right.
3. HRA urges the Human Rights Council to:
 - a. Support the Special Rapporteur in their work; and
 - b. Urge all States to accept the findings and recommendations of the Special Rapporteur.

²⁰ Raquel Rolnik (Special Rapporteur), *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context*, U.N. Doc. A/73/310/Rev.1 (Sept. 19, 2018).

²¹ U.S. Dept. of Housing and Urban Development, *The 2018 annual homeless assessment report to Congress* (2018), <https://www.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf>.

²² CA GOV Code Section 65580-65589.8 (2018), https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65580.

²³ Emily Thaden & Ruoni Wang, *Inclusionary Housing in the United States: Prevalence, Impact, and Practices* (Lincoln Institute of Land Policy, Working Paper WP17ET1, 2017), https://www.lincolnst.edu/sites/default/files/pubfiles/thaden_wp17et1_0.pdf.

²⁴ President Xi Jinping, *Report Delivered at the 19th National Congress of the CPC* (Oct. 18, 2017), http://www.xinhuanet.com/english/download/Xi_Jinping's_report_at_19th_CPC_National_Congress.pdf.