

Right to Housing: Case for Universal Legally Enforceable Right

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Abstract: Homeless is most striking and most visible in societies in which there is large disparity between general wealth of nation and poor or inadequate living conditions of its citizens. For example, there are more than five times as many vacant homes in the U.S. as there are homeless people, according to Amnesty International USA. Many homeless people live in large, urban centers and this problem is especially visible there since most of the wealth is also located in large metropolitan areas. It is no coincidence, therefore, that the most serious attempts to end homelessness originated in big cities. Basic idea behind these efforts is that providing place to live for homeless people would enable them to focus on improving other parts of their lives. For example, in 1992 psychologist Dr. Sam Tsemberis founded Pathways to Housing in New York City, while students in Los Angeles are building tiny houses for people experiencing homelessness. In Washington DC, local bar association operates Landlord Tenant Resource Center that offers free legal aid to those facing eviction. There is also constant pressure on mayors to “do something” about homeless on the streets, with or without help of state or federal authorities. Housing or lack of it is a complex issue and represents a challenge not only from legal standpoint but from other perspectives such as economic, urban and land development, taxing, banking or environmental.

Key words: homelessness, right to housing, urban development

1. Introduction

After the end of World War II, we have seen unprecedented period of economic progress, increase in individual wealth and overall prosperity across the globe. There is no doubt that the single biggest contributor to alleviating billions of people from poverty worldwide and expansion of middle class has been dynamic growth of Indian and Chinese economies. In western societies, this progress, however, has been less equal. Analysts suggest that most of the wealth has become concentrated at the top and that the world’s richest 1% are on course to control as much as two-thirds of the world’s wealth by 2030. After Summit in Davos in 2019, World leaders are being warned that the continued accumulation of wealth at

the top will fuel growing distrust and anger over the coming decade unless action is taken to restore the balance.

While inequality is the highest in the United States among the major economies, it has increased everywhere since 1985, including in Scandinavian countries [1].

Reasons for such disparity vary, but could be linked to income inequality, higher rates of saving among the wealthy and the accumulation of assets over generations. Perpetuation of unfair enrichment related to sources other than work, led some to call this era a “rentier capitalism” [2] The wealthy also invested a large amount of equity in shares and other financial assets, which have handed them disproportionate benefits [3]. On the other hand, huge number of people are struggling to afford the most basic means of living such as housing. Habitat for Humanity estimated in 2015 that 150 million people are homeless worldwide

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and that another 1.6 billion people around the world live in “inadequate shelter” [4].

Homeless is most striking and most visible in societies in which there is large disparity between general wealth of nation and poor or inadequate living conditions of its citizens. For example, there are more than five times as many vacant homes in the U.S. as there are homeless people, according to Amnesty International USA [5].

Many homeless people live in large, urban centers and this problem is especially visible there since most of the wealth is also located in large metropolitan areas. It is no coincidence, therefore, that most serious attempts to end homelessness originated in big cities. Basic idea behind these efforts is that providing place to live for homeless people would enable them to focus on improving other parts of their lives. For example, psychologist Dr. Sam Tsemberis in 1992, founded Pathways to Housing in New York City [6]¹, while students in Los Angeles are building tiny houses for people experiencing homelessness [7]. In Washington DC, local bar association operates Landlord Tenant Resource Center that offers free legal aid to those facing eviction [8]. There is also constant pressure on mayors to “do something” [9] about homeless on the streets, with or without help of state or federal authorities.

In many countries, urban housing is becoming one of the great social and economic issues of the age [10]. Not only in United States but across the develop world, housing costs increase while incomes stagnate, with direct negative effect on the prevalence of homelessness [11].² However, there is large difference

in approach taken by different countries, by level of tolerance and overall effort to end homelessness. After analyzing legislative framework, government programs and their implementation, the most striking conclusion is that some of the richest countries fail disproportionately to protect this most basic human right. Proposed solution would be to protect universal right to housing by law as it is demonstrated to be feasible, sustainable and effective in eradicating homelessness.

2. Research Objective

There are various aspects of homelessness, that range from psychological, life choices, medical, economic or criminal. Being homeless means living in a situation of inadequate housing, although homelessness is only one form of inadequate housing [12].³

The major causes of homelessness include the failure of urban housing projects to provide safe, secure, and affordable housing to the poor. Additionally, many workers cannot afford to live where they work, and even in moderately priced communities housing costs require a large portion of household income [13]. From the 1950s onwards, in the United States and some of the countries in Western Europe, the deinstitutionalization movement in state mental health systems, caused a shift towards “community-based” treatment of the mentally ill, as opposed to long-term commitment in institutions, which led to disproportionally higher prevalence of

¹ Program was designed with an aim of getting people experiencing homelessness off the streets and keeping them housed. Dr Tsemberis developed the consumer-driven evidence-based Housing First model that provides immediate access to permanent supportive housing to individuals who are homeless and who have mental health and addiction problems. After initial success, the model has been included in over 300 cities.

² “The number of homeless people in France increased by nearly 50% between 2001 and 2012 and in Germany, the total homeless population rose by 35% between 2012 and 2014. In Australia, more than 105,000 people, or one in 20 Australians,

are homeless. The number of people who accessed homeless services increased by 14% between 2013 and 2016. Homelessness is also on the rise throughout Brazil’s biggest cities. In November 2017, 20,000 homeless residents of Sao Paulo demonstrated to demand more affordable housing. According to the Sao Paulo government, the number of people sleeping on the streets nearly doubled between 2000 and 2015.”

³ “Other recognized forms are slums, informal settlements, illegal settlements, shanty settlements, irregular settlements, pirate settlements, unauthorized communities, emergency shelters, refugee camps, night shelters, and many more. Some countries have their own terms, like *barrio* (Spanish), *bidonville* (French), *favela* (Portuguese), *gecekondu* (Turkish), *Elendsviertel* (German), *trushchobi* (Russian) or *hood* and *ghetto* (American English).”

mental disorders relative to other disease groups within homeless patient populations [14]. As of recently, global mass migration has created increase in homeless population in addition to those already homeless within one country's borders.

Other causes of homelessness vary from country to country, but those that are fairly common, and affect many developed countries, including United States are: natural disasters [15]⁴, urban redevelopment and gentrification [16],⁵ the failure of government authorities to provide effective mental health care and meaningful job training for many homeless veterans [17],⁶ release of children from foster care when they reach adulthood [18],⁷ inability of former prisoners, people with history of mental illness or drug abuse to successfully reenter society [19],⁸ people who are hiding from police [20, 21]⁹ or fleeing domestic violence[22]¹⁰ discrimination of LGBT population

[23-25],¹¹ overly complex building codes that prevent people from building affordable housing even if they own the land [26],¹² foreclosures of homes and apartment complexes [27]¹³ and evictions from rented property [28].¹⁴

There are also individuals who are homeless by choice as they wish to remain "off the grid" for political and ideological purposes.¹⁵

This research will focus on those in need and want of housing, who cannot afford adequate housing for number of different reasons.

3. International Standards

According to universally recognized UN standards [29], the right itself entails several specific rights, freedoms and protections, which are expressly mentioned in the texts of the documents. These are not limited to physical shelter, but also include protection against forced evictions and the arbitrary destruction and demolition of one's home, the right to be free from arbitrary interference with one's home, privacy and family, the right to choose one's residence, to determine where to live and to freedom of movement, security of tenure, housing, land and property restitution, equal and non-discriminatory access to

⁴ "In addition to their social dimensions in singling out poor victims, large-scale natural disasters can also severely disrupt a regional or even a national economy"... Being homeless and unable to work can halt public services, commerce and farming, as cities and rural areas count the costs of the interruptions."

⁵ "Sociologist Ruth Glass coined the term in 1964, defining it as a process by which a neighborhood's "original working-class occupiers are displaced" by influx of higher-income newcomers. More broadly, gentrification refers to a process of neighborhood change involving the migration of wealthier residents into poorer neighborhoods and increased economic investment."

⁶ "[V]eterans returning from Iraq and Afghanistan who are at risk of homelessness may not receive the services they need."

⁷ "Without adequate preparation and without a safety net, aged-out foster youth frequently end up couch surfing or sleeping on the streets."

⁸ "In short, about a tenth of the population coming into prisons have recently been homeless, and at least the same percent of those who leave prisons end up homeless, for at least a while. And those with histories of mental illness and drug abuse are even more likely to be homeless."

⁹ "A growing number of American cities are ticketing or arresting homeless people for essentially being homeless. The new laws ban behavior commonly associated with homelessness like reclining in public, sharing food or sitting on a sidewalk." South Wales Police in UK is criticized for being "heavy-handed" in their approach to homeless people.

¹⁰ "Evidence suggests that domestic violence is among the leading causes of housing instability (including homelessness) nationally for women and children."

¹¹ "Estimates suggest that that disproportionate numbers of homeless youth are gay, lesbian, bisexual, or transgender." "The most frequently cited factor contributing to LGBT homelessness was family rejection based on sexual orientation and gender identity, with the second most common reason of being forced out by their parents after coming out." "LGBT youth are also disproportionately likely to become or remain homeless due to overt discrimination when seeking alternative housing."

¹² As for example in Canada, where municipal attempts to address homelessness are "often funneled into awkward machinery of zoning law".

¹³ According to a 2009 report by the National Coalition for the Homeless, at least 1 in 10 homeless people had lost their homes to foreclosure.

¹⁴ The main pathways into homelessness in reported in Netherlands were evictions from one's home (38%) and relationship problems that lead to leaving a home or being sent away by household members (35%), followed by leaving prison (6%).

¹⁵ There are number of movements promoting such lifestyle such as "Squat the Planet" or "Off-Grid Free Yourself."

adequate housing and participation in housing-related decision-making at the national and community levels.

According to the practice of treaty bodies and other sources of international law, for housing to be adequate, it should be secure from forced evictions, harassment and other threats, affordable, so its costs do not threaten or compromise the occupants' enjoyment of other rights, it must provide physical safety and adequate space, as well as protection against the cold, damp, heat, rain, wind and other threats to health and structural hazards, it must be accessible to persons with disabilities, take into account the specific needs of disadvantaged and marginalized groups and respect and take into account the expression of cultural identity.

Further, there are other rights that are closely connected to the right of housing such as right to an adequate standard of living, right to access to safe drinking water and sanitation, right to the highest attainable standard of physical and mental health, right to a safe and healthy environment, right of the child to an environment appropriate for physical and mental development, right to access to resources, including energy for cooking, heating, and lighting and right of access to basic services, schools, transportation and employment options [30].

The World Health Organization has asserted that housing is the single most important environmental factor associated with disease conditions and higher mortality and morbidity rates.

Right to adequate housing is naturally determining realization of other rights. At a base level, the right to housing affects the right to housing affects life, liberty and security of person.¹⁶ In addition, the full enjoyment of other rights — such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence and the right to participate in public

decision-making — is indispensable if the right to adequate housing is to be realized and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing.¹⁷ Furthermore, right to housing affects realization of rights to education, employment, health, voting rights or protection of victims of domestic violence.

Finally, the minimum core of the housing rights is closely linked to the right to human dignity. The lack of affordable housing places poor people in the impossible position of having to choose between the most basic of human necessities: housing or food, housing or health care, housing or clothing, and so on [31].

Adequate housing was recognized as part of the right to an adequate standard of living in the 1948 Universal Declaration of Human Rights and in the 1966 International Covenant on Economic, Social and Cultural Rights. The United Nations Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should be seen as the right to live somewhere in security, peace and dignity. The characteristics of the right to adequate housing are further clarified in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.¹⁸ Other international treaties promote the right to housing through general principle of non-discrimination or part of bill of rights afforded to protected groups.¹⁹

¹⁷ Comm. on Econ., Social and Cultural Rights, General Comment 4, The right to adequate housing (art. 11(1) of the Covenant) (Sixth session), U.N. Doc. E/1992/23, annex III at 114 (1991).

¹⁸ General comments are adopted by the treaty bodies based on their monitoring experience. They offer expert guidance to States on their obligations arising under a particular treaty.

¹⁹ Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, Mar. 7, 1966, 660 U.N.T.S. 195; Article 14.2 of the Convention of the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.; Article 27.3 of the

¹⁶ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N.Doc. A/810 at 71 (1948).

At the regional level, the right to adequate housing is protected by the European Convention on the Legal Status of Migrant Workers (1977), the African Charter on the Rights and Welfare of the Child (1990) and the revised European Social Charter (1996). Although the European Convention for the Promotion of Human Rights and Fundamental Freedoms (1950), the European Social Charter (1961), the American Convention on Human Rights (1969) and the African Charter on Human and Peoples' Rights (1981) do not explicitly refer to the right to adequate housing, its protection has been derived from the enjoyment of other human rights, such as the right to privacy, the right to property and peaceful enjoyment of possessions, and the right to protection of the family.

The right to housing is protected by the European Convention on Human Rights through protection of the right to family and private life and protection of the home (Article 8); the right to fair trial in the case of eviction (Article 6); the right to be protected against inhuman and degrading treatment (Article 3); the right to life (Article 2) and the right to protection against discrimination (Article 14). The right to housing is also grounded in the right to property. An individual's substantial interest in a "good" can cover in certain situations the protection of one's home irrespective of the tenure status (Article 1, protocol 1) [32]. In applying the Convention, the Court made it clear that no eviction must take place if the public authority has not looked for alternative methods for rehousing,²⁰ member states must pay particular attention to the consequences of an eviction, notably whether an eviction could cause the persons affected to become homeless²¹ and cannot leave people to live in deplorable conditions as a lack of reaction to the situation of people forced to sleep in hen houses, pigsties and open buildings exposed to the cold is a

violation of the European Convention on Human Rights.²²

While there is no universally guaranteed right to housing, Inter-American law dictates that States must provide housing — or any other public benefit — according to the principles of equal protection and non-discrimination. In Article 34 of OAS Charter it is stated: "To accelerate their economic social development, in accordance with their own methods and procedures and within the framework of the democratic principles and the institutions of the InterAmerican System, the Member States agree to dedicate every effort to achieve the following goals . . . [:] (k) Adequate housing for all sectors of the population." Article 11 of the American Declaration stipulates that: "Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care to the extent permitted by public and community resources."

In applying African Charter on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights held that, although the right to housing or shelter is not explicitly provided for under the African Charter, housing rights are protected through the combination of provisions protecting the right to property, the right to enjoy the best attainable standard of mental and physical health, and the protection accorded to the family [33].

3.1 United States

There is no constitutional guarantee or federal statutory entitlement to housing in United States. This was confirmed by the US Supreme Court in 1974 case *Lindsey v Normet*, where majority ruled that:

Constitution does not provide judicial remedies for every social and economic ill. We are unable to perceive in that document any constitutional

Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁰ *Yordana v. Bulgaria*, App. No. 25446/06, Eur. Ct. H.R. 6–8 (2012).

²¹ *Winterstein and Others v. France*, App. No. 27013/07, Eur. Ct. H.R. 69 (2013).

²² *Moldovan and Others v. Romania* App. No. 41138/98 Eur. Ct. H.R. (2005), *V.M. v. Belgium*, App. No. 6012511, 65 Eur. Ct. H.R. 14, 6–8 (2016), appeal dismissed, 65 Eur. H.R. Rep., 14 (2017).

guarantee of access to dwellings of a particular quality, or any recognition of the right of a tenant to occupy the real property of his landlord beyond the term of his lease without the payment of rent or otherwise contrary to the terms of the relevant agreement. Absent constitutional mandate, the assurance of adequate housing and the definition of landlord-tenant relationships are legislative, not judicial, functions.²³

Despite this strict judicial ruling, and possibly in line with it, many steps have been taken toward the political recognition of human right to housing.

There are a number of federal programs, administered by the Department for Housing and Urban Development (HUD) such as Public Housing Program, the Housing Choice Voucher Program (Section 8), the HOME Program and supportive housing for particular vulnerable groups, including those for the elderly (Section 202) and those for persons with disabilities (Section 811). These programs do not create entitlements; rather, they are “discretionary” programs that provide assistance only to the degree that they are funded [34].

In another landmark case *Jones v. Alfred H. Mayer Co.*²⁴ United States Supreme Court held that Congress can use its enforcement power to prohibit racial discrimination in the sale of private property. In deciding this case Court relied on Thirteenth Amendment which prohibits not only State laws establishing or upholding slavery, but eliminates all the badges and incidents of slavery. It was expressly stated, however, that the Congressional Act²⁵ whose validity Court upheld, is not a comprehensive open housing law as it deals only with racial discrimination.

Finally, Title VIII of the Civil Rights Act of 1968 (“Fair Housing Act”) “prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal

custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability) [35].

In reality, homelessness in US is caused by a severe shortage of affordable housing. Over 12.8% of the nation’s supply of low income housing has been permanently lost since 2001, resulting in large part, from a decrease in funding for federally subsidized housing since the 1970s. The shortage of affordable housing is particularly difficult for extremely low-income renters who, in the wake of the foreclosure crisis, are competing for fewer and fewer affordable units [36].

When homelessness reached crisis levels, several programs were introduced at federal level such as McKinney-Vento Homeless Assistance Act of 1987 or the Federal Strategic Plan to Prevent and End Homelessness from 2010.

All these efforts, however, have fallen short of recognizing legally enforceable right to housing as an essential component of human right to an adequate standard of living. Governmental resistance to recognizing the right in international treaty commitments is mirrored by the failure to adequately fund or implement programs to realize the right domestically [37]. Since funding of these programs is not mandatory, it is not uncommon that Government often has different priorities and not enough resources are dedicated to ensure that this basic right is upheld [38].²⁶

3.2 United Kingdom

Despite the fact that UK accepted international obligations to respect, protect and fulfil the right to housing under the International Covenant on Economic, Social and Cultural Rights, homelessness in UK is rising [39].²⁷ Housing is increasingly unaffordable,

²³ *Lindsey v. Normet*, 405 U.S. 56 (1972).

²⁴ *Jones v. Alfred H. Mayer Co.* 392 U.S. 409 (1968).

²⁵ 42 U.S.C. §1982.

²⁶ The latest report from the United States Interagency Council on Homelessness shows an increase of 7.3% or approximately 92,500 students experiencing homelessness, over a three-year period since the 2014-15 school year.

²⁷ Each year from 2010 to 2018 saw an increase of homeless individuals except the fact that homelessness fell by 3%

and legislative changes have weakened key safety nets for English households [40].

According to the UK Housing Act of 1996, local authorities have duty to provide interim accommodation to homeless people who have a “priority need” such as pregnant woman, dependent children, person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside.²⁸ Protection was further expanded in England by 2002 Homelessness Order [41] to include young people vulnerable to homelessness as a result of leaving local authority care; leaving the armed forces; leaving prison; and vulnerable as a result of fleeing domestic violence or the threat of domestic violence. Due to limited criteria and discretion of local authorities to determine priority need, significant number of homeless applicants, particularly single people, have no right to accommodation or adequate help to prevent or relieve their homelessness [42].

Following the intervention the UK Supreme Court, local authorities must consider how vulnerable someone is compared to the ordinary person facing homelessness, not someone who is already homeless and lack of resources should not affect a local authority’s decision about whether or not someone is considered a priority for housing [43].

In its latest Concluding Observation on UK, Committee for protection of Economic, Social and Cultural Rights expressed concern about the persistent critical situation in terms of the availability, affordability and accessibility of adequate housing, in part as a result of cuts in State benefits [44].

In addition to highlighting the barriers in access to adequate housing faced by marginalized groups²⁹, the Committee requested ensuring a sufficient supply of

housing, in particular social housing units, especially for middle- and low-income individuals and households, young people and persons with disabilities.³⁰ It is worth noting that the scope of the recommendations includes renters in the private rental sector.³¹

3.3 France

Although there is no specific reference to the right to housing in French Constitution [45]³², there are number of laws [46] that provide society not simply the ‘best efforts’ obligation required on the part of the State by international standards but right to housing that is enforceable, i.e., gives entitlement to relief through the courts to those who cannot afford to find somewhere to live.

On March 6, 2007, France adopted “DALO”³³ Law which placed performance obligation on State and introduced series of measures to promote social cohesion and eliminate homelessness among disadvantaged groups. For the first 5 years of its implementation, it applied only to the poorest segments of population but from 1 January 2012, the enforceable right to housing was extended to everyone who qualifies for social housing. Application process is relatively efficient, applicants deemed to have priority are allocated accommodation urgently, while the rest of the cases are decided by prefect within three months. Any person whose application for housing has not been satisfied, may apply to a mediation committee and then

³⁰ Id at 50. (b)

³¹ Id at 50. (c)

³² Right to housing is a recognized social right, enshrined in subparagraphs 10 and 11 of the preamble to the Constitution of October 27, 1946:

The Nation shall provide the individual and the family with the conditions necessary to their development. It shall guarantee to all, notably to children, mothers and elderly workers, protection of their health, material security, rest and leisure. All people who, by virtue of their age, physical or mental condition, or economic situation, are incapable of working, shall have to the right to receive suitable means of existence from society.

³³ *Droit au Logement Opposable* (Enforceable right to housing).

between 2012/13 and 2013/14. This cannot be considered as improvement as the following 2014/15 financial year recorded a further increase 36% higher than in 2009/10.

²⁸ UK Housing Act, 1996, s. 189.

²⁹ Id. para 50. (d)

lodge an appeal with an administrative court if they wish to pursue their application.³⁴

Recognizing that France is one of the countries that allows people with inadequate housing or who are homeless to claim access to public housing, focus of international observers shifted to standards of adequate housing and provision of basic services. Announcing her visit to France in early April of 2019, Leilani Farha, UN Special Rapporteur on the right to adequate housing, expressed intention to focus on gender equality and non-discrimination of refugees, people with disabilities and the poor, standards of living in informal settlements and substandard housing conditions, and the prevention of forced evictions [47].

Some authors also advocate that the protections of French housing laws should equally be extended to immigrants or people without permanent residence or a valid temporary resident permit [48]. This idea gained prominence after horrific event in 2005, when twenty-four people, including eleven children, died in fire at the Paris Opéra hotel where immigrants are accommodated as a temporary solution before they make their way in the city. However, there is no doubt that housing laws in France, modeled after similar solutions in Scotland, have been making significant progress in tackling homelessness. Thanks to this enforceable right to housing, some 100,000 households have accessed accommodation in France during first ten years of their implementation [49].

3.4 Germany

According to the German constitution, it is the duty of all state authority to ensure that everybody can live in dignity [50], irrespective of the level of their income. This implies a roof over one's head and if person is homeless, state agencies will help them find a new

apartment and pay rent for it, furniture and toiletries.³⁵ German policies go even one step further and are trying to mix the rich and poor population, so the German state is intentionally providing social housing in more affluent areas and bans communities segregated by income.

Constitutional principles are translated into laws, to make sure that all levels of government fulfil their duties irrespective of political will. Social Code has stipulated that all persons who are at risk of losing their homes are entitled to assistance — either in the form of loans or allowances for rent arrears [51]. Police laws in the Bundesländer (regional states) strictly oblige municipalities to provide shelter for roofless people [52]. Law on social housing (*Gesetz über die Wohnraumförderung*) is still in force, but is not applicable in federal states which have passed new federal state laws on social housing. Efforts at the federal level are primarily directed to the homeless EU-migrants and their children. Additionally, homelessness policy in Germany has been increasingly prevention-orientated. Since the reunification, many laws and programs have been designed to assist households who were in imminent risk of becoming homeless.

Faced with the problem of lack of affordable housing in the capital city, seen in other countries, government in Berlin has pledged in 2017 to construct 200,000 new homes, with 50% percent of that reserved for affordable rents [53].

It must be noted, however, that social assistance programs in Germany have not been immune to global challenges such as financial crisis or mass migration. Lack of national funding for employment services had negative effect on the homelessness, growing regulation and strict control of public space adversely affected homeless, especially migrants, while limiting social aid for unemployed EU migrants to a maximum of four weeks resulted in increase of homelessness.

³⁴ Loi n° 2007-290 du 5 mars 2007 instituant le droit au logement opposable et portant diverses mesures en faveur de la cohésion sociale (1), Version consolidée au 12 juin 2019 (FRA) <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT0000000271094>.

³⁵ (The right to adequate housing is derived from the Social State principle “Sozialstaatsprinzip”), Id. Art. 20, s. 1.

Construction of new housing units has not been able to satisfy demand [54] and scarcity of building land, tighter regulations and rising construction costs, make supply of affordable housing insufficient [55].

3.5 Japan

Key to Japan's success in eliminating homelessness may not be so much in the laws, which we have seen in other countries as well, but rather government policies and overall approach to spatial development.

By the end of 2018 number of homeless people in Japan has fallen to historic low of 4,977 [56]. United States has almost three times larger population than Japan, but at least half a million of homeless, which is 100 times more, according even to the most conservative estimates [57].³⁶

Public housing units in Japan is available for low-income people but those units, unlike in other countries, are located everywhere, even in priciest neighborhoods [58]. Another big between Japan and other countries has been maintaining affordability in major urban centers. Tokyo, one of the world's largest cities, where most people migrate to, does a better job of allowing housing supply to keep up with housing demand [59].³⁷ At the same time, local housing markets in the United States, are plagued by grassroots "Not In My Back Yard" activists who organize to stop efforts to build town homes and apartment buildings in their local neighborhoods [60].³⁸ In contrast, Japan sets housing regulations at the national level that forbid interference with or limitation to the size and scope of residential development, which helps keeping housing costs under control [61]. In addition to providing temporary shelter for homeless, local governments are focusing more attention on facilities to assist people's

lives and foster independence, as well as the improved job market as businesses look for people to meet the labor shortage [62].

Coupling the increasing number of vacant homes (due to demographics/aging population) with the fact that some cannot afford to buy or rent a home, vacant houses that are affordable — and sometimes free — are put up for sale online on websites called "akiya banks". Many of such sites are set up by local governments and communities to better manage the supply and demand for the growing stock of empty houses in their respective towns [63]. It is common that such houses are given for free and the buyer has only to pay for the taxes and fees such as agent commissions. Government additionally incentivizes such transactions by increasing property tax for homes that are not used.

Critics point to the fact that official estimates of homelessness do not take into account people living in cheap hostels called "internet-cafes", who are stuck in low paying jobs, can't afford to pay for the rent and are technically homeless [64]. Just like in other places, circle of misery perpetuates itself, as in orderly society such as Japanese those who find themselves homeless have very few possibilities either for gaining steady employment or obtaining a permanent residence, since there is little work opportunity for those without a fixed address, and most landlords demand that six months' rent be paid in advance [65].

3.6 South Africa

Examples of enforceable right to housing are not only found in developed countries, as demonstrated above, but also in developing democracies such as India or Brazil. Even some countries with long history of widespread poverty, inequality and apartheid, such as South Africa, have managed to address the homelessness crisis through decisive legislative action.

South Africa's Constitution recognizes a fundamental right to adequate housing, requiring progressive realization of the right and prohibiting

³⁶ Estimate number of homeless people by the U.S. Department of Housing and Urban Development for 2018 is 552,830.

³⁷ In 2014, Tokyo issued permits for 142,417 new housing units. In contrast, the entire state of California — which has three times the population of Tokyo — issued permits for only 83,657 new housing units.

³⁸ Because every construction project is located near *somebody*, the result tends to be that little housing gets built anywhere.

arbitrary evictions.³⁹

To give effect to this obligation the state has enacted various pieces of legislation including the Housing Act 107 of 1997 which requires that the government must take steps towards progressive realization of universal and affordable right to housing, in consultation with national organizations representing municipalities [66].

The 1998 Prevention of Illegal Eviction from and Unlawful Occupation of Land Act dictates that evictions of unlawful occupiers must be “just and equitable” [67].

National Housing Code of 2009 (NHC), specifies the minimum size of houses as forty square meters of floor area with two bedrooms, a separate bathroom with a toilet, a shower and a hand basin, a combined living area and kitchen space with a wash basin and a ready board electrical installation [68].

Jurisprudence of the Courts in South Africa has also underscored the importance of progressive nature of the right to housing.

In the matter of Residents of Joe Slovo Community v Thubelisha Home⁴⁰ the Constitutional Court ruled that the State was obliged to provide temporary shelter for people who have been evicted or face imminent eviction and were unable to find shelter, as the absolute priority must be the principle of upholding of human dignity.

In Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg vs City of Johannesburg and others⁴¹ the Constitutional Court

clarified the need for consultation and meaningful engagement with occupiers before conducting evictions. It ruled that no party may act in an intransigent manner or make non-negotiable, unreasonable demands.

In landmark case of Government of the Republic of South Africa vs Grootboom Constitutional Court declared that the most vulnerable people such as those living in extreme conditions of poverty, homelessness or intolerable housing should be given priority access to housing.⁴²

Despite positive obligations conferred upon the State, some of the proclaimed goals remain elusive. As of 2018, tens of thousands of South Africans are living in emergency temporary housing units [69], and were not able to secure permanent housing [70].

Although mechanisms are available for ensuring that even the most destitute of individuals are accommodated [71], current housing policies tend to prioritize private investment over the needs of the poor, housing provision is highly bureaucratic, non-participatory and expensive [72], there is failure on the part of Constitutional Court to follow up and force compliance with its judgements [73] and the right to adequate housing has only been partially realized in the area of provision of water and sanitation as well as in access to health and education facilities [74].

4. Conclusion

Housing or lack of it is a complex issue and represents a challenge not only from legal standpoint but from other perspectives such as economic, urban and land development, taxing, banking or environmental. Climate change, soaring housing costs in metropolitan areas and vulnerability of unprotected segments of population to global spillover of economic turmoil call for reassessment of the approach to right to

³⁹ S. Afr. Const. 1996§26:

(1) Everyone has the right to have access to adequate housing. (2) The state must take reasonable legislative and other measures, within its available resources, to achieve a progressive realization of this right. (3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

⁴⁰ Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others (CCT 22/08) [2009] ZACC 16; 2009 (9) BCLR 847 (CC); 2010 (3) SA 454 (CC) (10 June 2009).

⁴¹ Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg and Others (24/07)

[2008] ZACC 1; 2008 (3) SA 208 (CC); 2008 (5) BCLR 475 (CC) (19 February 2008).

⁴² Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000).

housing, even in most liberal economies. At the same time, homelessness is interference with public safety, and it threatens the rights to life and dignity of those affected. It should therefore represent the legal concern for those countries that do not guarantee right to housing by law, as they can be potentially liable for violating other related rights.

Homelessness is very visible and usually present in places that attract most visitors, nationally and from across the globe. It stands in contrast to accumulated wealth and contributes to seclusion and alienation of already marginalized groups. Instances of people sleeping on the streets affect overall image of the country, its sense of order, morality, solidarity and speak to the success of its economic model. In fact, poorer countries fair better in addressing homelessness and such general observation can be made not only on this short analysis and but also by looking at countries like Ecuador, Uruguay or Vietnam, where right to housing is protected in law.

Statistics show that homelessness disproportionally affects certain racial groups, which raises issue of discrimination and fuels racial divide, which is expected to be major cause of instability in modern democracies. Thousands of people present daily on the streets with nothing to lose may be ignored in times of prosperity but could easily exacerbate any turmoil and add to instability, whatever the causes might be.

In countries that protect right to housing by law, it is regarded by as a one of a range of social rights underpinning democracy and the rule of law. Without adequate housing it is impossible to be informed, participate in or make meaningful contribution to any legal or political process. Establishing enforceable right to housing in law would enable additional layer of protection that courts offer when parliaments decide to do nothing as programs that depend on political will rather than those based in law fail to deliver in times of economic troubles. According to 2009 HUD Annual Report to Congress, it was estimated that immediately after recession in 2008, homelessness in the US has

risen trifold to one and a half million people, from already one of the highest percentages among the developed countries.

In order to achieve progress in addressing issue of homelessness, one of the greatest myths that governments or advocacy groups need to debunk is myth about insufficient housing units or space. In fact, due to aging and negative demographic trends, there are more empty residential units and some countries such as Japan stepped in through tax policy to encourage giving empty houses or selling them at low price to those in need. Equally, whole debate about unworthiness of assistance is flawed as it is hard to see how it should apply to those with mental disabilities, medical emergencies, personal unfortune or victims of natural disasters. It is suspect that these excuses serve governments and real estate businesses for doing nothing and keeping housing prices artificially high, which was prevented in other global centers, like Berlin or Tokyo, without adverse effects to the economy.

Procedures and programs related to the right to housing, must be simplified such as in France, not only because it is the most basic right, but homeless people are usually devoid of regular means of communication, learning or effectuating their rights.

As it became obvious from profile of defendants in Washington DC Landlord Tenant Court, middle class citizens can easily find themselves homeless as cause of unforeseen and unfortunate circumstances, such as medical emergency not covered by health insurance, difficulties in student loans repayment or high legal costs related to ordinary life events.

It is true that in times of full employment and high income, there are plenty of donations, publicly financed shelters, subsidized rentals, free food kitchens and pro bono legal services. Once prosperous trends are no longer present, too many are left out in the open due to conservative policies of government and ordinary unconcern of general population

References

- [1] Heather Long, Ahead of Davos: Even the 1 percent worry about inequality, *Washington Post*, January 22, 2018, available online at: https://www.washingtonpost.com/business/economy/ahead-of-davos-even-the-1-percent-worry-about-inequality/2018/01/21/551392d0-fd2f-11e7-ad8c-ecbb62019393_story.html?utm_term=.751374f71703.
- [2] Guy Standing, *The Corruption of Capitalism: Why Rentiers Thrive and Work Does Not Pay*, Biteback Publishing, 2016.
- [3] Michael Savage, Richest 1% on target to own two-thirds of all wealth by 2030, *The Guardian*, April 7, 2018, available online at: <https://www.theguardian.com/business/2018/apr/07/global-inequality-tipping-point-2030>.
- [4] Joseph Chamie, As cities grow so do the numbers of homeless, *YaleGlobal Online*, July 13, 2017, available online at: <https://yaleglobal.yale.edu/content/cities-grow-worldwide-so-do-numbers-homeless>.
- [5] Tanuka Loha, Housing: It's a wonderful right, *Amnesty International Human Rights Now Blog*, December 21, 2011, available online at: <https://blog.amnestyusa.org/us/housing-its-a-wonderful-right/>.
- [6] Pathways Housing First, accessed on March 21, 2019, available online at: <https://www.pathwayshousingfirst.org/>.
- [7] Tess Sohngen, LA students are building tiny houses for people experiencing homelessness, *Global Citizen*, Sept. 1, 2017, available online at: <https://www.globalcitizen.org/en/content/la-students-buildings-houses-for-homelessness/>.
- [8] DC Bar Landlord Tenant Resource Center, accessed on March 22, 2019, available online at: <https://www.dcbart.org/for-the-public/help-for-individuals/landlord-tenant.cfm>.
- [9] Hilary Silver, Cities on a hill? Forum response, *Boston Review*, February 16, 2018, available online at: <http://bostonreview.net/forum/cities-hill/hilary-silver-can-cities-end-homelessness-their-own>.
- [10] Robin Harding, Why Tokyo is the land of rising home construction but not prices, *Financial Times*, August 3, 2016, available online at: <https://www.ft.com/content/023562e2-54a6-11e6-befd-2fc0c26b3c60>.
- [11] David Brand, This strategy for ending homelessness is catching on around the world, *Global Citizen*, Nov. 10, 2017, available online at: <https://www.globalcitizen.org/en/content/housing-first-ending-homelessness-human-right/>.
- [12] Michael Kolocek, The human right to housing in the face of land policy and social citizenship, in: Palgrave Macmillan, *A Global Discourse Analysis*, Switzerland, 2017, p. 72.
- [13] The National Alliance to End Homelessness, The state of homelessness in America 2014, accessed on March 23, 2019, available online at: <http://www.endhomelessness.org>.
- [14] Daniel Yohanna, Deinstitutionalization of people with mental illness: Causes and consequences, *AMA J. Ethics* (2013), available online at: <https://journalofethics.ama-assn.org/article/deinstitutionalization-people-mental-illness-causes-and-consequences/2013-10>.
- [15] Roy Gilbert, Doing more for those made homeless by natural disasters, *Disaster Risk Management Working Paper Series* No. 1, World Bank, Washington DC, 2001, p. 7.
- [16] Justin Feldman, Gentrification, urban displacement and affordable housing: Overview and research roundup, *Journalist's Resource*, Aug. 15, 2014, available online at: <https://journalistsresource.org/studies/economics/real-estate/gentrification-urban-displacement-affordable-housing-overview-research-roundup/>.
- [17] Libby Perl, Veterans and homelessness, *CRS Report RL34024*, 2015, p. 2.
- [18] Sacred B. Huff, Abandoned all over again: A discussion on aging out of foster care & homelessness, *The Washington Legal Clinic for the Homeless*, April 17, 2018, available online at: <https://www.legalclinic.org/abandoned-all-over-again/>, citing U.S. Department of Housing and Urban Development, Housing for youth aging out of foster care: A review of the literature and program typology, 2012, pp. 3-4, available online at: http://www.huduser.gov/publications/pdf/housingfosterca_re_literaturereview_0412_v2.pdf.
- [19] Caterina Gouvis Roman and Jeremy Travis, Taking stock: Housing, homelessness, and prisoner reentry, Urban Institute, 2004, available online at: <http://webarchive.urban.org/publications/411096.html>.
- [20] Vice News, Seeking refuge: Excerpt from "hiding the homeless", Dec. 1, 2015, available online at: https://news.vice.com/en_us/article/a39xkp/hiding-the-homeless-full-length.
- [21] BBC News, Police being "heavy-handed" with Swansea homeless people, Nov. 30, 2018, available online at: <https://www.bbc.com/news/uk-wales-46390018>.
- [22] Charlene K. Baker et al., Domestic violence, housing instability, and homelessness: A review of housing policies and program practices for meeting the needs of survivors, *Aggression and Violent Behavior* (2010) 430-439.
- [23] Center for American Progress, Gay and transgender youth homelessness by the numbers, June 21, 2010, available online at: <https://www.americanprogress.org>

- /issues/lgbt/news/2010/06/21/7980/gay-and-transgender-youth-homelessness-by-the-numbers/.
- [24] The Palette Fund, True Colors Fund and the Williams Institute, Serving our youth: Findings from a national survey of services providers working with lesbian, gay, bisexual and transgender youth who are homeless or at risk of becoming homeless, accessed on March 24, 2019, available online at: <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>.
- [25] Friedman Samantha, Reynolds Angela, Scovill Susan, Brassier Florence, Campbell Ron and Ballou McKenzie, An estimate of housing discrimination against same-sex couples, June 1, 2013, available online at: <https://ssrn.com/abstract=2284243>.
- [26] Prashan Ranasinghe and Mariana Valverde, Governing homelessness through land-use: A sociolegal study of the Toronto shelter zoning by-law, *Can. J. Sociol.* (2006) 325-349.
- [27] Foreclosure to Homeless 2009 the forgotten victims of the subprime crisis, accessed on March 25, 2019, available online at: <https://www.nationalhomeless.org/advocacy/ForeclosuretoHomelessness0609.pdf>.
- [28] Igor R. van Laere et al., Pathways into homelessness: recently homeless adults problems and service use before and after becoming homeless in Amsterdam, *BMC Public Health*, Jan. 7, 2009, available online at: <https://bmcpublihealth.biomedcentral.com/articles/10.1186/1471-2458-9-3>.
- [29] UN Habitat and Office of the United Nations High Commissioner for Human Rights, The right to adequate housing, *Fact Sheet No. 21/Rev. 1*, accessed on March 25, 2019, available online at: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf.
- [30] The Peoples' Movement for Human Rights Education, The human right to adequate housing, accessed on March 25, 2019, available online at: <https://www.pdhre.org/rights/housing.html>.
- [31] Mayra Gómez et al., Housing rights are human rights, *Human Rights: Journal of the Section of Individual Rights and Responsibilities* 32 (2005) (3) 2-5.
- [32] Fondation Abbé Pierre, FEANTSA, Housing-related binding obligations on states from European and international case law, last updated 2016, available online at: http://www.housingrightswatch.org/sites/default/files/2016.06_-_housing-related_binding_obligations-2.pdf.
- [33] Republic of Kenya, in the High Court of Kenya at Nairobi, Constitutional and Human Rights Division, *Petition No. 65 of 2010*, Judgement 76, Aug. 26, 2013, available online at: <http://www.kenyalaw.org/caselaw/cases/view/90359/>.
- [34] National Forum on the Human Right to Housing, Housing rights are human rights, Nov. 5, 2007, p. 76, available online at: https://issuu.com/cohre/docs/cohre_humanrighttohousing2007.
- [35] The Leadership Conference on Civil and Human Rights, *Federal Fair Housing Laws*, accessed on March 26, 2019, available online at: <http://www.civilrights.org/fairhousing/laws/federal.html>.
- [36] National Law Center on Homelessness and Poverty, No safe place: The criminalization of homelessness in U.S. cities, 7, accessed on March 26, 2019, available online at: https://www.nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf.
- [37] National Law Center on Homelessness and Poverty, Simply unacceptable: Homelessness and the human right to housing in the United States, June 2011, p. 33, available online at: https://nlchp.org/wp-content/uploads/2018/10/Simply_Unacceptable.pdf.
- [38] Jasmine Hayes, School year 2016-2017 data shows a majority of students experiencing homelessness sharing housing of others but unsheltered numbers increasing, March 27, 2019, available online at: <https://www.usich.gov/news/school-year-2016-2017-data-shows-majority-of-students-experiencing-homelessness-sharing-housing-of-others-but-unsheltered-numbers-increasing/>.
- [39] UK Ministry of Housing, Communities and Local Government, last updated May 24, 2019, available online at: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>.
- [40] Justfair Report, Protecting the right to housing in England: A context of crisis, accessed on March 26, 2019, p. 3, available online at: <https://www.qmul.ac.uk/law/media/law/docs/news/154442.pdf>.
- [41] The homelessness: Priority need for accommodation, England, *Order* (2002), accessed on March 27, 2019, available online at: <http://www.legislation.gov.uk/uksi/2002/2051/contents/made>.
- [42] Crisis UK, The homelessness legislation: an independent review of the legal duties owed to homeless people, accessed on March 28, 2019, available online at: https://www.crisis.org.uk/media/20606/crisis_the_homelessness_legislation_2015.pdf.
- [43] LGiU the local democracy think tank, Viewpoint: A single duty, accessed on March 28, 2019, available online at: <https://www.lgiu.org.uk/2015/05/28/viewpoint-a-single-duty/>.
- [44] Committee on Economic, Social and Cultural Rights: Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, para 49, E/C.12/GBR/CO/6, July 14, 2016, available online at: https://tbinternet.ohchr.org/_layouts/

- 15/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=En.
- [45] Preamble to the 27th of October 1946 Constitution, accessed on March 29, 2019, available online at: <https://www.equalrightstrust.org/sites/default/files/ertdocs/Preamble%201946%20ENG.pdf>.
- [46] Marie Loison, The implementation of and enforceable right to housing in France, *European Journal of Homelessness* 1 (Dec. 2007) 186, available online at: https://www.feantsaresearch.org/download/ejh_vol1_eval28312346268548145523.pdf.
- [47] United Nations Office of the High Commissioner for Human Rights, France: UN housing rights expert to visit, assessed on March 30, 2019, available online at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24435&LangID=E>.
- [48] Claire Lévy-Vroelant, The right to housing in France: Still a long way to go from intention to implementation, *J. L. & Soc. Pol'y* (2015) 88-108, available online at: <https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1210&context=jlsp>.
- [49] All Together in Dignity, Making Human Rights work for people struggling in persistent poverty, March 29, 2017, available online at: <http://escr-irl.org/wp-content/uploads/2017/03/The-enforceable-right-to-housing-in-France2.pdf>.
- [50] Deutscher Bundestag, Basic Law for the Federal Republic of Germany, Art. 1, available online at: <https://www.btg-bestellservice.de/pdf/80201000.pdf>.
- [51] Country chapter for OECD series Benefits and Wages, Germany, 10, last updated July 1, 2009, available online at: <https://www.oecd.org/els/soc/47346817.pdf>.
- [52] FEANTSA Country Fiche, Homelessness in Germany, accessed on March 30, 2019, available online at: <https://www.feantsa.org/download/germany-20174561023180755814062.pdf>.
- [53] Ulrich Paul, 200.000 Wohnungen benötigt Neubau-Pläne werden für Ärger sorgen - vor allem in Pankow, *Berliner Zeitung*, Nov 14, 2018, available online at: <https://www.berliner-zeitung.de/berlin/200-000-wohnung-en-benoetigt-neubau-plaene-werden-fuer-aerger-sorgen---vor-allem-in-pankow-31592640>.
- [54] Jochen Möbert, Housing Policy in Germany Changing Direction, Germany Monitor, Aug 31, 2017, available online at: https://www.dbresearch.com/PROD/RPS_EN-PROD/PROD000000000450490/Housing_policy_in_Germany_%C2%96_Changing_direction.pdf.
- [55] Fearguss O'Sullivan, Berlin's massive housing push sparks a debate about the city's future, *Citylab*, Nov. 27, 2018, available online at: <https://www.citylab.com>
- [/equity/2018/11/berlin-germany-affordable-housing-construction-rents/576469/](https://www.citylab.com/equity/2018/11/berlin-germany-affordable-housing-construction-rents/576469/).
- [56] Kyodo, Japan's homeless ranks down to 15-year low under 5,000, survey says, *The Japan Times*, July 14, 2018, available online at: <https://www.japantimes.co.jp/news/2018/07/14/national/social-issues/number-homeless-japan-falls-15-year-low-5000/#.XKqn75hKg2w>.
- [57] U.S. Department of Housing and Urban Development, HUD 2018 continuum of care homeless assistance programs homeless populations and subpopulations, Nov. 13, 2018, available online at: <https://www.hudexchange.info/homelessness-assistance/a-har/#2017-reports>.
- [58] Philip Braser and Masako Tsubuku, Japan's public housing system has a shelf life, April 4, 2015, available online at: <https://www.japantimes.co.jp/community/2015/04/04/how-tos/japans-public-housing-system-shelf-life/#.XKqnnphKg2w>.
- [59] Philip Weiden, Tokyo holds the key to affordable housing, Real Estate in-depth Official Publication of the Hudson Gateway Association of Realtors, Oct. 2016, available online at: <http://www.realestateindepth.com/viewpoints/legislative-affairs-tokyo-holds-the-key-to-affordable-housing/>.
- [60] available online at: <https://www.vox.com/2016/8/8/12390048/san-francisco-housing-costs-tokyo>.
- [61] Timothy B. Lee, Tokyo may have found the solution to soaring housing costs, *Vox*, Aug. 8, 2016, available online at: <https://www.vox.com/2016/8/8/12390048/sanfrancisco-housing-costs-tokyo>.
- [62] Nippon.com, Government survey identifies 5,534 homeless people in Japan, June 20, 2018, available online at: <https://www.nippon.com/en/features/h00221/government-survey-identifies-5-534-homeless-people-in-japan.html>.
- [63] Yene Lee, Want a free country house in Japan? They're giving them away, *CNBC*, Nov. 21, 2018, available online at: <https://www.cnn.com/2018/11/22/japan-free-homes-empty-houses-given-away-and-sold-cheap.html>.
- [64] Kim Ng, No homeless in Japan?, Aug. 9, 2018, available online at: <https://medium.com/@kmelyng/where-are-the-homeless-in-japan-64dcc99a4af8>.
- [65] Abby Margolis, Down but not out: Homelessness in Japan, University of Pittsburgh Online Curriculum Project, accessed on April 1, 2019, available online at: <https://www.japanpitt.pitt.edu/essays-and-articles/society/down-not-out-homelessness-japan>.
- [66] South African Human Rights Commission, The right to adequate housing factsheet, p. 3, accessed on April 2, 2019, available online at: <https://www.sahrc.org.za/home/21/files/Fact%20Sheet%20on%20the%20right%20to%20adequate%20housing.pdf>.

- [67] Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19, Republic of South Africa Official Gazette, June 5, 1998, available online at: https://www.gov.za/sites/default/files/gcis_document/201409/a19-98.pdf.
- [68] Republic of South Africa Department of Human Settlements, National Housing Code 2009, Part 3, available online at: http://www.dhs.gov.za/sites/default/files/documents/national_housing_2009/2_Technical_General_Guidelines/1%20Vol%202%20Part%203%20Technical%20and%20General%20Guidelines.pdf.
- [69] Housing Development Agency, Implementation of Emergency Housing, accessed on April 2, 2019, available online at: http://thehda.co.za/pdf/uploads/multimedia/HDA_Implementing_Emergency_Housing_Guidelines.pdf.
- [70] Soraya Beukes, Promise of right to housing remains elusive in democratic South Africa, *The Conversation*, Nov. 26, 2018, available online at: <https://theconversation.com/promise-of-right-to-housing-remains-elusive-in-democratic-south-africa-105706>.
- [71] The South African Human Rights Commission Investigative Hearing Report, Access to housing, local governance and service delivery, p. 9, February 23-25, 2015, available online at: <http://www.sahrc.org.za/construction-site/home/21/files/Access%20to%20Housing%202015.pdf>.
- [72] Jackie Dugard et al., The right to housing in South Africa, in: *Socio-economic Rights: Progressive Realisation?*, Foundation for Human Rights, 2016, pp. 155-156.
- [73] Lucy A. Williams, The right to housing in South Africa: an evolving jurisprudence, *Colum. Hum. Rts. L. Rev.* (2014) 816-843.
- [74] Thato Rapelang et al., Exercising the right to access adequate housing in Joe Morolong Local Municipality, Rural South Africa, *J. Hous. and the Built Environ* (2018) 695.