



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Response to the UN Durban Review Process Questionnaire

The Habitat International Coalition (HIC) and its Housing and Land Rights Network (HLRN) recognize that, since the 2001 Durban Declaration and Plan of Action (DDPA), racism and xenophobia have not measurably declined, but may actually be on the rise globally, affecting people living in both urban and rural habitats across all regions. This determination is based on the findings of HIC-HLRN's monitoring efforts, particularly those contained in its on-line Violation Database.¹ Other findings are referenced to HLRN fact-finding reports and reports from Member organizations of the Habitat International Coalition. These findings are treated in the questionnaire responses as phenomena summarized by region. (An annex provides summaries of the actual cases also organized by region.). HIC-HLRN emphasizes that the cases and phenomena presented below are selected to illustrate principal issues related to discrimination in housing and land, and are not meant to be exhaustive.

It is the hope of HIC-HLRN that this submission will better inform and guide the Durban Review Process, including deliberations toward finalization the outcome document (DOD), which as of the date of this submission omits to address crucial concerns and needed measures toward the elimination of racism, racial discrimination, xenophobia and related intolerance in the field of housing and land use.

Question 1: Assessment of Durban Declaration and Programme of Action Implementation

The Durban Declaration and Programme of Action (DDPA) had addressed the deprivation arising from racial and other discrimination by recognizing the need for general preventive and remedial measures to address past wrongful acts and the deprivation they cause. The DDPA urges states to ensure:²

1. Equal opportunity in all spheres (para 76);
2. Full implementation of ICERD (para 77);
3. Respect of all human rights, including the right to development (para 78);
4. Effective policy corrections based on the recognition that the deficit of political will, weak legislation, and lack of implementation strategies and concrete actions by the state are the obstacles to overcoming racial discrimination and achieving equality (para 79);
5. Education, in addition to development and "faithful" implementation of human rights norms, as necessary steps (para 80);
6. Equality of all in a democratic, transparent, responsible, accountable and participatory governance structure (para 81);

The DDPA also affirmed:

7. Political leaders' and parties' key role in the fight against racism, racial discrimination, xenophobia and related intolerance (para 81);
8. The international community's multifaceted role and fundamental responsibility in honoring the memory of the victims of the slave trade (para 101);
9. Reparation as a right of victims of racial discrimination that constitutes gross violations of human rights and grave breaches of international law (para 104).

With particular respect to matters related to nondiscrimination in exercise of the human right to adequate housing and equitable land use, DDPA urged states to:

10. Collect reliable statistical data on housing (para. 92);
11. Establish national programs and measures to promote the access of groups of individuals who are or may have been the victims of discrimination to social services, including adequate housing (para. 100);
12. Promote residential integration of all members of the society at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing, so as to counter social exclusion and marginalization (para. 102).

The present submission reflects the application of this DDPA-provided framework to the relevant developments and priorities arising in a specific field since Durban. Most of these measures, as well as the others listed in the DDPA, have yet to be established and/or fully realized. A fundamental and consistent obstacle to achieving the DDPA goals remains a lack of social and political will at all levels to combat the causes and consequences of discrimination.

Local populations will not feel it necessary to reform their xenophobic views, attitudes and behavior toward others as long as the state, its institutions and political representatives remain unable or unwilling to assert the moral leadership called for to implement the necessary measures, including those outline in DDPA. Such measures include not only the necessary legal protections, but, just as importantly, also the enforcement, policies and economic programs vital to ensuring that the theory and practice of racism, racial discrimination, xenophobia and related intolerance are considered illegal and immoral, and that the agents of the State and citizens are held equally accountable for their words and deeds. To combat the evils of racism and discrimination, the State must have a government that is democratic, transparent and participatory, so as to make certain that the mechanisms of accountability and responsibility operate successfully.

Most of the state's oral and written contributions to the Durban Review Process have not reflected evidence of those governance qualities in practice. That is despite the indispensable role of the international community in guaranteeing that all states uphold their commitments and obligations.

The role of the international community is key to the elimination of racial discrimination and its deprivations, including through application of the over-riding human rights treaty-implementation principle of "international cooperation." The international community of states, as collectively represented by UN organs, and particularly the treaty bodies, plays pivotal roles in monitoring to assure that governments uphold their treaty-bound state obligations and related general principles of international law. The lack of political will and enforcement of states' obligations—manifest in the political bodies of the UN and multilateral system—has contributed significantly to a reality in which powerful states act with impunity and allow racism, racial discrimination, xenophobia and related intolerance to persist and advance.

Question 2: Assess contemporary manifestations

Contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance abound globally and arise from a combination of causes, including market forces, social attitudes, official discrimination between or among categories of citizens, class bias, military occupation/alien domination, economic decline, competition over natural resources, distinction in residency status, incompatible life styles, selective service delivery, including denial of information or participation to particular groups. Since 2001 violations of this nature have risen, indicating, that aims of the Durban Conference and the goals of the DDPA are far from being implemented.

One of the most apparent ways in which racism, racial discrimination, xenophobia and related intolerance manifest is in the management and distribution of housing stock and land resources through public institutions or through the market. The factors of discrimination in housing and land use result from an array of factors: exclusionary development policies and practices, denial of security of tenure, exclusion of housing benefits, lack of access to credit, discriminatory lending patterns, restricted participation, discriminatory laws and the lack of effective legal protection against discrimination by private and public actors. An important development since Durban has been the growing dominance of one set of economic theories—promoted by international financial institutions and development agencies—supporting the transfer of State control to the private sector and calling for unrestricted markets and free trade. That process has foreclosed options of state action to implement the Durban commitments.

It should be noted that, in an unregulated setting, the connection between discrimination of any kind and rights to housing and land are direct, though complex, and, most importantly, mutually enforcing. As CERD expert Mr. Michael Banton has pointed out to the 2001 Durban Conference participants:

The underlying causes of racial discrimination in the housing markets resemble those described for employment, but in some respects the pattern is more complex. In the market, for the purchase of housing there are sellers who do not wish to sell to members of certain other groups. Many sellers engage real estate agents to sell their properties and these agents may then attempt to "steer" would-be purchasers towards properties in particular localities because of prevailing patterns of residential segregation. Purchasers also have their own preferences as to the neighborhoods in which they wish to live. These preferences may be racially discriminatory or be influenced by a desire to avoid the discrimination practiced by other people. In the rental market likewise there are landlords who do not wish to rent apartments to persons of a particular group. The three factors of taste, risk and profit continue to operate, but within a different structure. Private persons, when selling houses or renting apartments, are profit-oriented and might be expected to put financial gain before skin colour; yet often, instead of seeking maximum profit, they seem content to settle for a smaller gain by striking a bargain with someone of their own ethnic group. Sometimes a seller planning to sell to an outsider risks intimidation from those seeking to ensure that there is no change in the character of their neighborhood. When a municipality rents apartments, its routines and policies will be determined politically and have often been found to be racially discriminatory. In these ways a new form of apartheid may be created, as in many United States cities. Once such a pattern is established, it becomes a cause of further segregation. By building an unfavorable image of the residents of a particular neighborhood, it contributes to discrimination and strengthens racially exclusive preferences. It is more difficult to eradicate residential segregation by race when minority political leaders acquire an interest in its maintenance.³

While this analysis characterizes an apparently haphazard and incremental process, the reality of housing discrimination may only appear to be subtle and individually driven. In addition, however, the consequent growth of "gated communities" and their exclusionary equivalents coincide with disingenuous and cynical justification for segregation that have coopted concepts of natural rights to

property, “urban integration” and even “social cohesion” and “demographic balance” in ways that combine with actual policies that lead to dispossession, segregation and “apartheid cities.”⁴ This stubborn process follows the inversion of older euphemisms of “gentrification” and “urban renewal” that have accompanied and driven segregation in earlier decades.

For many years, the requirements of attracting international capital investments increasingly have assumed precedence over the pursuit of social objectives.⁵ The neoliberal priorities of lower taxation, free trade, reduced welfare benefits and spending, and correspondingly selective fiscal constraint consequent have driven a global transformation from an emphasis on state economic management and service provision to “an ethos of privatism” in economic life.⁶ In his country missions since 2001, the Special Rapporteur on housing has reported the coincident reduction and privatization of public and social housing in many countries as exacerbated the gap between need and availability. That has created conditions whereby access to adequate housing has become ever-more based on income competition that generates unacceptable discrimination in light of state obligations to respect, protect and fulfill HRAH.

Coupled with that these phenomena is the ongoing economic “downturn,” which is recognized as triggered in large part by the crisis of mortgage defaults. Numerous studies have demonstrated how loan conditions and loan denial have related to race, only explained by ethnic income disparities. Minorities have been found to be the dominant subjects of “subprime” lending and “predatory loans.”⁷

Economic and social forces today also escalate xenophobic treatment of peasant and rural people globally, whereas indigenous people and pastoralists remain the constant targets and victims of spatial discrimination, displacement and population transfer. People under occupation and foreign domination endure a particularly virulent form of xenophobia and discrimination where they live, characterized in dispossession, eviction and demographic manipulation, including the illegal implantation of settlers. Diverse causal forces behind many of these violations may vary from military operations, to religion, to tourism.

HIC’s HLRN, through the contribution of its members and the situations recorded in its *Violation Database*, make possible the following, regionally organized global assessment of manifestations of discrimination since 2001 in the context of habitat, housing and land:

Africa

Various categories of discrimination affecting housing and land rights are common across the diversity of the African continent. Whether against the indigenous peoples or other minority groups, State protection is not readily available despite guarantees enshrined in both international agreements (i.e., CESCER or CERD) and regional agreements (e.g., the African Charter on Human and Peoples’ Rights). During the Durban review period, cases observed (see *Annex of Cases* below) reflect various deprivation patterns targeting the urban poor, immigrants, refugees and already-displaced persons, indigenous people, pastoral communities and forest dwellers, as well as other physically or culturally distinct groups.

Interethnic conflict and war continue to be major sources of land and housing discrimination in Africa. Old and atavistic rivalries have shown to resurface as political conflict, although their real origins may be far deeper and murkier than the contours of current political parties. Moreover, the politicization of ethnicity, increasingly becoming more exacerbated with economic depression, has increased tensions in various parts of Africa. Racism and discrimination have combined with

struggles over natural resources on the continent, erupting into armed conflict that crosses borders and burdens the humanitarian and peace-keeping efforts of the international system.

The general targeting of the urban poor for dispossession, demolition and forced eviction are common across all subregions. However, evictions of forest dwellers have emerged as a prominent theme of African housing and land rights violations.

Asia

Violations as a specific consequence of xenophobia and discrimination against race, religion, indigenous people, migrants and Roma coincide with global practice. In Asia, interethnic and interminority discrimination, promoted by the state, have led not only to mass evictions but, additionally, either have promoted and/or exacerbated already present tensions that have led to conflict and war (see *Annex of Cases* below). Land disputes, some with historic roots, remain at the base of discrimination patterns that beg multilateral resolution.

The caste system and descent-based and work-based discrimination, though some Asian states deny their existence, is a continual fixture of the discriminatory systems of social stratification in the region. Adequate attention to resolving it is still wanting. Autochthonous peoples, always at particular risk, have been a target of various government campaigns to remove them from historically held lands and, consequently, destroy their ways of life.

Inter-religious and interethnic conflicts, often coinciding with ongoing discriminatory policies and state instituted discrimination, play a key role in land and housing rights violations of distinct communities. Specifically, social and religious xenophobia and discrimination continues to smolder, flaring up in response to catalyzing events. One of the most volatile examples involves the friction between Muslim and Hindu, especially in India, where both faith communities coexist in large numbers and close quarters.

Urban segregation, privatization and private developments illustrate new twists in the protraction of conflicts arising from discrimination, racism and xenophobia. With the ongoing global trend toward economic globalism and privatization of public goods and services, impoverished people are being directly targeted by state development, beautification and urban renewal projects. Thus, what is becoming a demarcation in the physical lay-out of most cities globally is the obvious segregation of the poor with slum and illegal settlement-clearing policies.

Finally, evidence of discriminatory practices employed in Tsunami relief and rehabilitation efforts related to housing and land represent a unique, and ongoing, case of violations. Specifically, violations of the human right to housing resulted from discrimination on the basis of ethnicity, caste, gender and type of land tenure.

Latin America

One of the most prominent features of land and housing violations in Latin America targets indigenous peoples (see *Annex of Cases* below). Repression and criminalization of landless people's movements abound, primarily in rural and periurban areas, are common. Urban segregation and private development, as with other regions, remain a continued source of housing and land rights violations in Latin America. This also has overlapped with particular targeting of indigenous communities.

Europe and North America

Various forms of violations, arising from inherently discriminatory and xenophobic State policies, afflict both Europe and North America (see *Annex of Cases* below).

The United States has long produced ethnically discriminatory mortgage-lending patterns, manifesting as lending denial and “predatory lending” particularly affecting Hispanic and African-American persons and groups. The subprime mortgage crisis is related to that pattern, generating greater homelessness of evicted former owners and renters of foreclosed properties throughout the country.⁸ Homelessness already had afflicted Black and Hispanic persons disproportionately.⁹ In the United Kingdom, the Black and minority ethnic population is disproportionately representing among homeless persons.¹⁰

In Europe, the Roma/Sinti populations have been, and continue to be, subject of discrimination across Europe. Ranging from racist policies against them, to mass raids as part of “urban transformation” schemes, the Roma are consistently and increasingly having their housing rights violated and, often, with State collusion. For example, as by far among of the worst European violators of Roma rights, successive Italian governments have instituted increasingly racist policies against them. Moreover, encouraged by the government’s lack of protections for the Roma, locals have also been increasingly involved in violence against the Roma. The evictions were frequently both unauthorized and involved the total destruction of Roma property, while governments and law enforcement officials reportedly have omitted to intervene.

Other forms of discriminatory policies have led to the mass evictions of other minority communities across Europe, including Traveller and migrant communities. In addition, war and conflict continue to affect parts of Europe and, especially, ethnic minorities. For example, as of 2006, 60,000 ethnic Ingush of Northern Ossetia have been unable to return to their homes from which they were originally displaced in 1992. Meanwhile, Ossetian refugees have occupied their homes, posing a recipe for continual interethnic conflict.

Urban beautification, gentrification and privatized development serve as regionally cross-cutting issues in Europe and North America. For example, the 2012 Olympics preparations in the UK already have begun revealing the xenophobic policies directed against the poor. The construction of venues will disproportionately affect low-income groups, public-housing residents, foreign students and ethnic minorities. In Canada, Vancouver’s 2010 Olympic gentrification has led to the evictions of 1,050 low-income people.

Across North America, increasing violence toward the homeless, as a unique issue, has become a concern for public debate in recent years. While the homeless are increasingly finding themselves unprotected by the government, eviction of the homeless has served as an interim government solution to remove the homeless from the public view. In 2007, for example, city authorities evicted 30 homeless persons in Edmonton and 50 in Montréal from public spaces with alternative dwellings. At the local level, instead of working constructively to help homeless people, many communities have criminalized homelessness, as exemplified in Los Angeles’ Skid Row or the Minneapolis “lurking” ordinance, with police targeting homeless African-Americans at alarmingly disproportionate rates.¹¹

Middle East and North Africa

Throughout the Durban Review period, the MENA region has continued to be plagued with war, poverty, colonization, occupation and intercommunity conflict involving various forms of racism, racial discrimination, xenophobia and related intolerance (see *Annex of Cases* below). While the

region itself is historically no stranger to conflict, colonial practices combined with continued external neocolonial domination and internal fragmentation have exacerbated violations and tensions across MENA.

War and conflict are, by far, the sources of the greatest number of violations. Besides, but not unrelated, U.S. and European interventionist policies, including the “War on Terror,” not only have led to direct displacements and societal disintegration, but also have been the cause of extended misuse of government power locally. More broadly, antiterror laws and related official behavior outside of the region fostered various racial profiling practices at borders and airports throughout the West, restricting freedom of movement and residency rights. Finally, occupation in various parts of the region also represents another major source of violations. In addition to the Palestinians enduring Israeli military rule, other groups remain negatively affected by prolonged occupations.

Discrimination based on caste and ethnic backgrounds is common in the region and a source of ongoing violations. Also, violations stemming from discrimination on the basis of poor economic status abound in the region.

Question 3: Concrete antidiscrimination measures and initiatives

The list of measures and initiatives that States may employ to ensure the effective implementation of the DDPA is extensive. A summary of such recommended actions follows:

- It is not possible to survey here all obligations of state, particularly those arising from legislation at the national level. However, it is not beyond the scope of the DOD implicitly to recognize that the binding “obligations” are those enshrined in the various UN human rights treaties and international humanitarian law. In this way, it becomes clear to all state participants that the minimal standard of treaty obligations, including their attendant duties and accountability, needs to be upheld and *progressively* realized. Further, recognizing and acknowledging those binding duties reaffirms the international community and international law as sources of accountability that victims also can access toward remedy and reparation.
- This includes the need for developing clarity on the concept of state responsibilities, duties and liabilities involving extraterritorial obligations (ETOs) under human rights treaties and general principles of international law. States and legal practitioners need to understand better how such ETOs bind states to respect, protect and—in some cases—even to fulfill economic/social/cultural rights in their external behavior, especially as that relates to the human right to adequate housing and land rights.¹²
- Emphasis is still needed on measures for the protection of nomadic indigenous populations, as they are often historically discriminated against in ways by other groups and the state. Specifically, they often are not only discriminated against racially but, more importantly, contempt for their way of life forms a core impetus for discrimination.
- It is especially important to make more-specific mention of housing and land rights, as most conflicts today, including those assumed to be interethnic and interracial, illustrate how land-use and housing form a consistent field and subject of discrimination, as well as the related housing and land rights form keys to resolution of the same conflicts.
- Recognition of neocolonialism and military occupation within the context of *institutionalized discrimination* is needed. These situations generate unique and pervasive violations founded on discrimination inherent in the dominant ideology and interventionism. While the Palestinians are an oft-cited example as victims, mention should also be made of other analogous groups violated

under similar occupation and/or foreign domination, including the Kurds, Tibetans, Western Saharans, Ahwazis, Uighurs, the people of Nuba Mountains (Sudan), and others. All of these groups, among others, have experienced demolitions, displacement and land dispossession throughout the Durban Review Process. Finally, house demolitions and forced evictions for their prevalence in cases of occupation deserve mention as specific manifestations of racism and discrimination, both classic and contemporary.

- Economic Neocolonialism is a modern extension of historical ideologies of domination. It is demonstrated in a variety of instances, including direct occupation, indirect control through economic systems of weaker nations, and pervasive ideologies (i.e., Western-defined ideologies of “neoliberalism” and/or “free-market development”). This has worked to disable national political, social and economic systems, as well as state roles, responsibilities and even authorities *vis-à-vis* citizens. Likewise, the character of economic globalism continues to retard multicultural, pluralistic and indigenous lines of development. It is vital that concepts of equality be broadened in the DOD to contribute positively toward broader parameters of discourse over matters related to the subjects of the Durban Review Process.
- It is particularly important for the Durban Review Process and DOD that the human right to adequate housing be recognized as fundamental to the effort at eliminating discrimination that deprives hundreds of millions. The world outside the Durban Review Process increasingly acknowledges that women, noncitizens and migrants often bear a special burden, being more excluded or marginalized in the spatial setting of cities.
- Since reparations (including apologies) have been few and uneven in the past, none has implemented the reparations framework as reiterated in GA resolution A/60/147. Thus, more thoughtful recognition of the problems and solutions pose in applying the reparations framework is needed on the subject in para. 167 of Section 1.
- While expanding the OHCHR’s Antidiscrimination Unit is welcome, other practical, institutionally and legally-empowered means are needed for monitoring and remedying racism, racial discrimination, xenophobia and related intolerance both within the UN system and in the field. Strengthening the treaty monitoring system is indispensable, and, therefore, overlooking or supplanting CERD with efforts to build less legally authorized bodies—if delinked from CERD—would not fulfill the present needs.

Question 4: Assessing the effectiveness of Durban follow-up mechanisms

The effectiveness of Durban follow-up mechanisms, particularly the preparatory committees and their attendant Draft Outcome Document (DOD), have been less than exemplary of state obligation and critical evaluation of DDPA. In particular, the follow up mechanisms have replicated many of the problems and obstacles raised in the original Durban Conference in 2001 and its two predecessors (1978, 1983). Specifically, the following points are most salient:

- The DDPA and DOD references to the right of housing have been inconsistent. Denying access to adequate shelter can constitute a fundamental violation of to the right to life, as experienced in cities all over the world. Meanwhile, the lack of access to land, as a public resource, often serves as an obstacle not only to an adequate standard of living, but to the way of life for many communities subject to ongoing and/or historic discrimination. Dramatic cases of apartheid, colonization, *hafrada*, occupation and even genocide involve deliberate targeting of the unwanted (indigenous) people by eliminating, confiscating and/or destroying their habitat. Thus, it is vital that these issues be acknowledged and addressed, particularly with the growing number of conflicts that have as their source housing and land rights violations and as essential to their solution. The climate crisis only augurs more of the same.

- The DOD includes broad statement of progress and regression, but gives no indication as to how assessments were made so as to substantiate the document's claims. Moreover, the DOD lacks specificity on the necessary tasks to remedy retrogression and ensure progress. Does this reflect consultations with local NGOs and/or National Institutions globally? Is the assessment based on reports submitted only by States (i.e., the questionnaire)? Have relevant UN bodies and jurisprudence served to advise (e.g., CERD)?
- The methodology for such assessments should be somewhere explained. For example, in asserting efforts at combating discrimination in the important area of housing and land use, did the Durban Review Process apply the guiding recommendations of the UN Special Rapporteur for that purpose? Those included an outline for determining the extent to which DDPA-implementing states:
 - Enacted or strengthened legislative measures that prohibit racial discrimination in all areas of the public and private sectors, including housing, planning and land policies and provision of building materials, services and housing finance;
 - Ensured that policies, program and budgetary and financial allocations are carried out in good faith to promote equal access to civic services essential to the realization of the right to adequate housing, including potable water, electricity and sanitation, and repeal policies and programs that promote discriminatory access;
 - Guaranteed access to judicial remedies for violations of the right, such as forced evictions, deliberate denial of civic services, including reparations for damages suffered, in accordance with article 6 of ICERD;
 - Developed national institutions with adequate resources and mandates to monitor legislative, judicial and administrative services, including to receive complaints, and the capacity and authority to undertake follow-up action;
 - Undertook affirmative action to diminish, eliminate and compensate for conditions that cause or help to perpetuate discrimination in the realization and retention of the right to adequate housing;
 - Eliminated barriers to the enjoyment of the right to adequate housing that are disproportionately faced by ethnic and racial minorities and indigenous peoples living in life-threatening and health-threatening housing conditions (with special attention to particularly vulnerable groups; i.e., persons affected by HIV/AIDS), so that they do not suffer from discrimination in housing;
 - Institutionalized interministerial coordination to ensure that the formulation and implementation of economic globalization policies, such as those in the areas of trade, investment, finance, structural adjustment and debt, do not cause the state to contravene covenanted human rights obligations and aggravate living conditions for those people and communities facing discrimination and segregation with regard to housing, land and access to related civic services.¹³
- The DOD and other follow-up mechanisms reflect priority efforts given to appeasing the political considerations of states, rather than victim protection.
- The "rightist" political trend of some European/Western states and their increasingly discriminatory acts are mentioned are not dealt with adequately.
- Double standards and avoidance toward important current issues only sustain rhetorical treatment of past crimes (e.g., slave trade and the Nazi Holocaust) and lack sufficient acknowledgment of current such practices, including those by and within states that, ironically, claim to speak on behalf of those historic victims.

- The general lack of political will on the part of States is abundantly clear. The DOD has called upon the Durban Review Conference to demonstrate the political will to confront these phenomena (Section 1, para. 227). If, seven years after the WCaR, we are still calling for the requisite political will, then what progress has been made?
- The DOD recommends that States establish mechanisms by which to collect disaggregated numbers on various social indicators; i.e., health, education, and access to housing (Section 1, paras. 148, 150–51). However, the text is vague about how to go about this, the use of such information and what recourse victims have in the information-collection process. Reinforcing the principles of reparation may provide one ready guide to addressing that gap.
- Statements abound in the DOD on the significant global progress, adoption of legislation to eradicate racism and the positive attempts to formulate national strategy plans to deal with racism (e.g., Section 1, paras. 123–25), but, without any substantiating detail or precision. For example, questions remain unanswered as to which countries actually have made any progress since the WCaR, what types of legislation specifically have been enacted, and which policies serve DDPA implementation. Some identification to needed amendments and/or policy changes need to be made to ensure the implementation of the DDPoA is still needed. Without practical criteria and content, it remains impossible to ascertain the true progress of DDPoA implementation, or any future assessment.

Question 5: What steps governments should take to ratify and implement ICERD

In addition to universal ratification and state parties' implementation of CERD recommendations, HIC-HLRN refers readers to corresponding examples of good state practice in answer to Question 5 below.

Question 6: Good practices

In the course of the Durban Review period, HIC-HLRN has observed numerous good practices by states and related lessons toward the remedy and eventual elimination of racial discrimination, xenophobia and related intolerance. While these practices are not exhaustive, they illustrative and stand out as priority considerations for other states to emulate:

- As an example of "proactive action," the California Housing Element Law requires cities and counties to plan affordable housing for all income levels of society, rather than just building luxury residences. A recent amendment to the law requires counties to provide at least one zoning jurisdiction where homeless shelters can be located by right, ensuring that "not-in-my-backyard" attitude does not prevent those with the most-critical housing needs to find adequate shelter.
- Quite aside from the obsession with ownership, in addition to irresponsible lending, that has driven a global financial crisis, international experience shows that rental housing tends to offer better location, services and infrastructure than equivalent ownership housing, and facilitates labor mobility, which is an important livelihood strategy of the poor and groups subject to past discrimination.¹⁴ The availability of affordable rental housing for such persons and groups is an essential element of any poverty-alleviation and affirmative-action strategy.¹⁵
- Of property taxation has been said: "It is the best of taxes, it is the worst of taxes."¹⁶ While systems vary from state to state, the flat-rate system may impede urban development by discouraging owners from investing in property upgrading and maintenance. Property taxes should avoid effective bias against low-income earners, especially in ways that multiply

discrimination against already-disadvantaged groups. Land-value taxation is a fairer system, because the land is a natural resource and, as a “common good,” all have an equal right to use and enjoy it.

- The concept of the “social function of property” is enshrined in Brazil’s 1988 Constitution,¹⁷ enabling governments and needy communities to access surplus and unused land and other properties to ensure access to adequate housing as a measure of affirmative action for those subject to past discrimination. Similar concepts have been legislated, as in the case of Colombia’s Law 388, permitting municipalities to recover socially created land values (*plusvalía*) by allowing the public to exercise a right “to participate” in increases in land values created when land-use regulations increase the potential for development. The law covers three categories of public actions, including: (1) changing a designation of rural land into land for urban or suburban development; (2) modification of zoning, or other land-use regulations; and (3) modification of regulations that permit greater building density. Municipalities then are able to access a portion (30–50%) of those increased values to improve neglected areas and communities by buying land for “social interest” housing, providing infrastructure, expanding the network of open spaces, financing mass transit, carrying out large socially oriented urban projects/urban renewal, covering costs of land expropriation for urban renewal or undertaking historic preservation.
- Some countries have enshrined similar concepts into legislation and new constitutions, including guarantees of nondiscrimination in the rights to adequate housing, equitable land, water and democratic management of the city, as most-recently seen in Ecuador.¹⁸
- Relatively new efforts at titling lands for Quilombolas (Brazil) since 2003, however perceived as slow in its implementation, may be essential to reversing the historic discrimination and economic marginalization of those Brazilians.¹⁹ Moreover, the Statute of the Cities (2001) defines the democratic management as an essential element within urban development. The current government’s Ministry of Cities has resolved not to accept loans from international financial institutions that restrict subsidies and other measures aimed at benefiting the low-income or no-income families. Thus, that policy implements an ETO within the “international cooperation” principle of human rights treaty implementation. The current government aims to reduce the budget surplus target of 4.5% to 3.25%, thereby releasing increased funds to meet human rights obligations, including the right to housing, for the very poor subjects of discrimination.²⁰
- Reparations, including but not limited to acknowledgement of the wrong done, form an essential remedy to the consequences of racial discrimination and related intolerance. While affirmative action forms an indispensable part of restitution for victims, not less important are the acknowledgment and apologies by governments for institutional mistreatment of indigenous peoples, as in the case of ICERD treaty parties Australia²¹ and Canada,²² following their recent CERD reviews.
- Law-enforcement officials must be trained in, and made accountable to norms of nondiscrimination and housing rights, as in the case of unlawful evictions. One rare example of such professionalism is the case of Cook County Sheriff Thomas Dart (Illinois, USA) for not enforcing eviction orders against Chicago renters of foreclosed property, when they had no notice of the foreclosure, no time and no resources to avoid homelessness.²³
- The independence of the judiciary is one criterion for remedial action to address discrimination against vulnerable groups, such as indigenous and pastoral groups. In late 2006, the High Court of Botswana recognized the government attempt to evict the Bushmen from their lands as unconstitutional, thus interrupting—however, not definitively ending—a pattern of official dispossession and displacement targeting the indigenous group.²⁴

Nongovernmental community of practice

As a global coalition, HIC has been involved in a series of activities to both promote the DDPA and ICERD. Additionally, HIC also has worked diligently to communicate to various UN treaty bodies and personnel, including members of CERD and the relevant special rapporteurs, local violations to housing and land rights as a consequence of racism, racial discrimination, xenophobia and related intolerances. These activities include:

- **Parallel reporting:** HIC and HLRN long have been involved in the preparation of parallel reports for various UN treaty-monitoring committees. Since 2001, HIC, through its global offices, has submitted reports on Yemen and Israel to CERD; on Mexico, China, Kenya and India to CESCR ;and has provided additional information for the CESCR country reviews of Spain, Kuwait, Morocco, Greece, Egypt and Jordan. Parallel reporting has been a particularly important sector of activities as it has not only involved supporting the treaty monitoring process, but served to engage civil society seriously in the process by applying human rights methodology to policy analysis. For example, prior to Kenya civil society’s preparation of the 2008 Kenya parallel report to CESCR, HIC-HLRN delivered training sessions with local members and partner organizations. Finally, cooperation with the treaty bodies has promoted codified rights and corresponding state obligations in upholding ICERD beyond state borders as an “international cooperation” principle, whether through ODA, or in case of military occupation.
- **Networking and Conferences:** HIC has taken the opportunity of using various conferences and networking forums as platforms to disseminate information about both housing and land rights standards and violations to these standards. Discrimination-related violations form a fundamental source of abuse. For example, the World Social Forum has been an important meeting point for various social movements—including HIC—from around the world to link struggles in accessing housing and land, and to exchange and develop human rights and antidiscrimination strategies toward overcoming obstacles and posing alternative solutions.
- **WGPAD:** HIC-HLRN also followed and contributed to the work of this DDPA follow-up mechanism by delivering a comparative report on discrimination-driven land losses of Black farmers in the United States and the affirmative land-tenure normalization affecting the Quilombolas in Brazil.²⁵
- **Urgent Actions:** HIC’s Housing and Land Rights Network has developed an Urgent Action System quickly to support those Members and their communities whose housing and/or land rights have been violated, or are in potential risk of being violated. Accordingly, structured, law-based communications circulate through a global contacts database. Participants then send similar communications to the duty holders and all relevant authorities, in order to urge them to avoid or repair damages caused and, ultimately, to correct policies and/or conduct. The UN mechanisms, a key destination of certain Urgent Action (UA) appeals, have responded variously. These include Special Rapporteurs (SRs) and human rights officers who have contacted HLRN directly to report their response to certain urgent actions. Effective responses from the UN, particularly from SRs, have taken various forms that include their communications to government officials, occasional public statements and follow-up during country missions. Not only the SR on adequate housing, but also the SRs on minorities, indigenous peoples, the right to food and human rights defenders are known to have used HLRN’s UA appeals and, in some instances, taken up the UA case in their own advocacy work. The new SR on adequate housing Raquel Rolnick will continue the work on communications, including following up on some of the cases that her predecessor Miloon Kothari has taken up. OHCHR officers have used UAs in their work on particular countries and ESCR themes. Some of the best examples include HLRN’s UA cases that have been assumed under the 1503 procedure of the UN Human Rights Commission, now Human Rights Council. (The most-recent procedure involved a case of victimizing peasants in Honduras, in cooperation with affiliate networks FIAN and La Via Campesina.)

- Both “social function of property” and participation in “socially created values” are subjects of advocacy and argument across civil society—as shared through the mechanism of HIC—as a problem-solving option for addressing the persistent effects of discrimination in housing and access to land.²⁶
- Individual HIC and HIC-HLRN Members also have undertaken various activities in order to promote antidiscrimination and corresponding policies in the context of housing and land rights. For example, the National Law Center on Homelessness and Poverty (NLCHP), based in the United States, offers training courses on how to use antidiscrimination laws to protect the rights of domestic-violence survivors. Because domestic violence is a major source of homelessness among women, particularly those who are victims of domestic violence, and gender-based discrimination a common feature of women’s access to housing, the NLCHP offer audio training to ensure that women facing discrimination understand their rights under the federal Fair Housing Act.
- HIC-HLRN Members in Palestine/Israel regularly confront institutionalized discrimination in housing and land use, whether as fundamental to domestic law and policy within Israel, or as a factor of the ongoing occupation of Palestinian territory designated to form the future Palestinian state. The Department of Geography and Urban Development (Ben Gurion University), Mossawa Center, the Association of Forty, Adalah: The Law Center on Arab Minority Rights in Israel, Badil Resource Center on Palestinian Residency & Refugee Rights, the Human Rights Association (HRA), Al Mezan Center for Human Rights, the Arab Center for Alternative Planning (ACAP) and the Regional Council for the Unrecognized Villages (RCUV) all have contributed in specialized ways to create knowledge about, and defend the rights of Palestinians subject to official and social discrimination. Mossawa, Adalah, ACAP, HRA and ACAP variously have focused their work on discrimination affecting the Palestinian Arab citizens of Israel and promoting equality and nondiscrimination toward the eventual democratization of the state. Within that context, Association of Forty, RCUV and the BGU Department of Geography focus on the specific case of Bedouin citizens and their embattled “unrecognized” villages.
- Al Mezan and PARC, like counterparts inside the Green Line, work on issues related to Palestinians in the occupied territories, concentrating as possible on ESC rights, including housing and livelihood. Badil’s work primarily concerns the rights of the Palestinian refugees, which remains the majority Palestinian population dispersed throughout the wider region.
- In Sudan, the Entishar Charity Society, though dealing generally with economic, social and cultural rights, has a special focus on women’s rights and gender-based discrimination. The Group for Economic, Social and Cultural Rights Studies, like Entishar, also deals with economic, social and cultural rights, but with a special focus on the monitoring and prevention of human rights violations. Both, either through services or advocacy, address the displaced populations in Sudan, subjects of xenophobic forces and living in continued vulnerability.
- In India, HIC-HLRN Member organizations such as Youth for Unity and Voluntary Action (YUVA), Sajha Manch and the HLRN’s own South Asian Regional Programme (SARP) have taken the battle against discrimination and spatial segregation to the streets, literally. YUVA is composed of grassroots activists involved in articulating the struggles of “pavement settlers.” Through political and legal training, workshops and public advocacy, YUVA seeks to ensure that persons marginalized under discriminatory economic policies and processes, and particularly lower-caste persons, are empowered through establishing their legal identities and, by extension, rights within the state.
- Established in 1982, a Member of HIC and HLRN is FEDEVIVIENDA, created by a group of organizations across Colombia to pose solutions to the dismal living standards and quality of life for the impoverished majority of the country’s population. Over time, FEDEVIVIENDA has

developed expertise and methods for addressing gender discrimination and women's contribution to urban development, the threats to indigenous and peasant land rights, and developing more-inclusive cities through innovative legislation and the application of law.

These examples of good practices are as diverse as the very factors and consequences of discrimination in housing and land use. The practice of states, including the international community, holds the greatest potential for problem solving by virtue of the superior resources and expertise they can mobilize, either individually within states or through "international cooperation." However, the practice and will of state actors is not always sufficient, effective, or consistent with the principle of nondiscrimination. Various civil society contributions are still needed, including but limited to legal approaches. Many base activities on the maxim: "for every right, there is a remedy"; however, not every remedial approach within the diverse and complementary HIC community of practice is law based. Nonetheless, applying the human rights methodology, grounded in the overriding principle of nondiscrimination, allows such civil efforts at preventive and/or remedial solutions to be consistent with the combined commitments, obligations and authorities of the states in which they live and work.

Violations not only need exposure and enumeration, but also solutions. Most cases cited by HIC-HLRN as a basis for this submission are recorded with proposed, rights-based solutions in the HIC-HLRN Violation Database and other forms. Case-specific information is found in the Annex of Cases below.

For further reference, consult the VDB at: <http://www.hlrn.org/english/violation2.asp>, or through the following websites:

www.hlrn.org / www.hic-sarp.org / www.hic-mena.org / www.hic-net.org

ANNEX OF CASES

Africa

Various categories of discrimination affecting housing and land rights are common across the diversity of the Africa continent. Whether against the indigenous peoples or other minority groups, State protection is not readily available despite guarantees enshrined in both international agreements (i.e., CESCER or CERD) and regional agreements (e.g., the African Charter on Human and Peoples' Rights). During the Durban review period, the following observed cases reflect various deprivation patterns targeting the urban poor, immigrants, refugees and already-displaced persons, indigenous people, pastoral communities and forest dwellers, as well as other physically or culturally distinct groups:

- Tanzania: Government expelled 15,000 illegal immigrants in 2006 with the aim of reducing the number of illegal immigrants in the country. However, the Tanzanian Government has also expelled naturalized Tanzanian citizens, registered refugees living in refugee camps and persons who have an apparently valid claim to asylum, but reside outside of camps. Some have lived in Tanzania for decades or were born there and have never lived elsewhere. According to Tanzanian officials, the operation is targeting a total of 60,000 persons of Rwandan origin and a yet unspecified number of persons of Burundian origin.
- South Africa: In a string of forced evictions in 2005, officials dispossessed and displaced 500 persons in Johannesburg's inner city. It is alleged that *apartheid*-era laws were used to carry out evictions, rather than appropriate legislation passed in accordance with the country's new constitution. Rights groups raised no objection to the government tackling substandard living conditions in poorly serviced buildings, but denounced the eviction from "bad buildings" without meaningful consultation or providing alternatives to evictees and, thus, creating homelessness.
- Ethiopia: In 2005, 10,000 people of the indigenous Guji-Oromo were left homeless when government operatives burned their houses. This was the latest move in the effort to remove the Guji and Kore people from within the boundaries of a national park so that it can be developed and managed by the Netherlands-based *African Parks Foundation* as a wildlife viewing park for tourists. It is a condition of the *African Parks Foundation* contract that no people be present in the park. Prior to 2004, the park and its environs were inhabited or utilized by thousands of Kore/Amaro and Guji-Oromo households. The Guji-Oromo are pastoralists who claim a legitimate presence in the area that dates back generations. The government previously expelled them from the Park in the 1980s but came back and re-established themselves in five villages. The boundaries of the Omo National Park were recently legalized to pave the way for a management contract between African Parks Foundation and the Ethiopian Federal and Regional Governments. This was accomplished by Ethiopian parks officials persuading tribal people to sign away their land, without compensation, by way of documents they could not read. The legal establishment of the Omo Park subsequently has transformed the Omo peoples into illegal squatters on their own land.
- Central African Republic: In 2006, between 150,000 and 260,000 indigenous M'bororo have been victims of targeted government campaigns against them. 10,000 of these seminomadic people have been reported to have fled to Cameroon. It is claimed that campaigns are part of an "ethnic cleansing" program by local militias. The M'bororo, also known as "Bush Fulanis," are the nomadic and seminomadic "cousins" of the Fulani/Foulbe people, driving their herds through vast parts of the central Sahel. In the past few decades scarce land resources have led to attacks on M'bororo communities in Nigeria, Cameroon and Central African Republic. Conflict between the predominantly Christian country and the Muslim minority M'bororo is also seen as a source of violation.

Interethnic conflict and war continue to be major sources of land and housing discrimination in Africa. The politicization of ethnicity, increasingly becoming more exacerbated with economic depression, has increased tensions in various parts of Africa. Falling cocoa and coffee prices in Côte d'Ivoire, for example, have led to a particularized definition of "Ivoirite" by the government in 1995 in an attempt to both exclude political opponents and mobilize political support against people of foreign origins in an increasingly impoverished country. Consequently, with increased economic inequality and despair, local populations have become more receptive to hate propaganda. This has undermined the residence rights of millions in Cote d'Ivoire who had migrated there from neighboring countries during the economically successful years in the 1960s and 1970s. Moreover, there is growing ethnic and religious tensions which have divided the country between the Muslim north and Christian south since 2002; and, in the process, displaced hundreds of thousands. In Burundi, another example, 100–389,000 people remain displaced since the 1990s, when they were forced to leave as a consequence of vicious fighting between the Hutu majority rebels and the government-dominating Tutsi minority.

Finally, evictions of forest dwellers have been a common theme of African housing and land rights violations. Examples include:

- Ghana: The Game and Wildlife Division argues that the forced evictions are necessary because the land was set aside as a forest reserve. As such, the government evicted 300 community members residing in the Digya National Park, in 2002. Prior to the forced evictions, many of the evictees had lived in the Digya National Park, Afram Plain District, Ghana for over 30 years. They are part of a community of approximately 7,000, and live mainly on fishing. In 2006, 7,000 persons were evicted from the Dudzorme Island within the Digya National Park, in the Tapa-Abotoase area of Lake Volta, and the planned forced eviction of thousands more. These forced evictions have deprived residents, including women and children, of their homes and, in most cases, of their means of earning a living. The forced evictions were carried out without adequate prior consultation, adequate notice and compensation or alternative accommodation.
- Kenya: the Kenyan Government has long been evicting local autochthonous peoples from forest areas, in order to "protect Kenya's forests." In 2004, the government evicted approximately 10,000 persons from the Surur Forest. Also, in 2004 the government evicted and left homeless approximately 100,000 indigenous Chepkitales. The Pok community, who constitute a majority of the local leaders, are reported to be involved in a systematic effort to displace the Chepkitale (Ogiek) people from their land. Reports indicated that the Pok community wants to evict the Chepkitale (Ogiek) people in order to turn the Chepkitale's ancestral homeland into a national game reserve that would serve as a source of money for the Pok-controlled County Council. It is also reported that the Council has allocated land of the Chepkitale (Ogiek) community to relatives and friends of local Pok politicians as a way of securing votes. Since 1971, many efforts have been made to resolve the land conflicts occurring between these communities, but reportedly that these plans have always been plagued by corruption and political favoritism.

Between 1992 and 2004, five different settlement committees formed, attempting resolve these disputes, but such efforts regularly resulted in further dispossessing the Chepkitale (Ogiek) community of their land. In 2005, evictions affected more than 50,000 people in Mau forest including the burning of homes and several granaries. The Kenyan Government has yet to ensure alternative resettlement or compensation. The government's official pretext for the evictions has been environmental protection. The Lands and Housing Minister recently announced evictions will take place in other forests, and he has authorized public institutions to "recover" land.

- Botswana: Government forces evicted 2,200 of the Gana and Gwi Bushmen (Noakwe) from the Central Kalahari Game Reserve (CKGR) in 1997. Although the government designated the CKGR as a homeland for the Gana and Gwi Bushmen in 1961. In 1997, it has evicted the Bushmen, arguing that their hunting practices were endangering the wildlife in the reserve. Officials have argued that providing basic services, such as water, to the Bushmen. Previously, the Government forcibly evicted 1,500 Bushmen from the reserve in 1997. The Government again forcibly evicted approximately 700 people, destroying the houses and the water supply of the Bushmen in 2002. Currently, between 200 and 250 Bushmen live in the CKGR under threat of eviction, as well as 1,800–2,000 Bushmen living in resettlement camps outside CKGR under poor conditions and high HIV/AIDS infection rates. Critics have charged that the true motive for the evictions is to facilitate diamond mining. While exploration concessions on reserve land have preceded 2002, their numbers more than trebled over 2000–02 (from 18 to 62). Shortly after the 2002 forced evictions, the government reportedly awarded diamond exploration concessions to De Beers and its subsidiaries, as well as to BHP Billiton on Bushmen land.
- Congo: An estimated 6,000 persons were evicted from the Virunga National Park, Congo and left in desperate conditions in 2006. As many as 800 of the evictees had crossed over to Uganda from areas surrounding the park with about 3,000 head of cattle. Half of those expelled were women and children.

General targeting of the urban poor for dispossession, demolition and forced eviction is common across all regions. However, during the period since the DDPA, dramatic examples in Africa include the following:

- Nigeria: As one of the world's worst housing and land rights violators, the Nigerian government has maintained an extensive program of mass evictions and demolitions. Since 2000, Nigerian officials have evicted approximately two million around the country. The government has been primarily targeting marginalized people who already have lived for years without access to amenities, including clean water, sanitation, health and education. Since 2000, the government has evicted 1.2 million people from slums in Port Harcourt for private development and urban beautification. In addition, on 28 November 2005, President Obasanjo gave the green light for one of the most massive and violent forced eviction campaigns globally. The campaign, by its end, is expected to affect approximately four million people in the target city, Abuja. With the help of the army and bulldozers, the police have destroyed houses, hospitals, schools, mosques and churches. There is no plan for resettlement or compensation. Already, 800,000 people have been forced into immediate homelessness and, of the 49 targeted settlements; 21–24 already have been demolished. The evictions are part of an ongoing campaign to implement the 1978 master plan, drawn up by the International Consortium of Planners, Urban Designers, and Architects (USA) to develop the city of Abuja. The plan envisages creating a “world class” city of three million people in Abuja. (Its current population is approximately 7 million.)
- Zimbabwe: Political violence involved large-scale violations of land and property rights in the months following adoption of DDPA. Gangs attacked commercial farmers and farm workers in April 2002, evicting them from their homes with as little as an hour's notice, under intense intimidation, property damage and looting. Officials and police reportedly permit and merely observe these evictions.

The infamous Operation Murambatsvina targeted and further impoverished at least 560,000 urban slum dwellers in waves of centrally directed attacks of variously attributed motivations. The most-affected communities were in the cities of Harare, Bulawayo, Victoria Falls, Chitungwiza, Chipinge, Kariba, Chinhoyi, Beitbridge, Gwanda and Mutare.

Post-election violence led to new waves of displacement through of violence and intimidation under the April 2008 Operation Makavhoterapapi (Shona for “Where did you put your cross?”; i.e, for whom did you vote?). Groups of ZANU-PF militias and war veterans—some in military uniform—targeted constituencies where the majority of voters elected the Movement for Democratic Change (MDC). Those ZANU-PF forces have threatened and carried out forced evictions, or burned down houses. On 20 April, the MDC secretary general reported that 3,000 families displaced by the violence, while ZANU-PF militia have burnt down at least 800 homes.

These combined evictions grounded in xenophobia and related intolerance have violated the housing and land rights of some one million Zimbabweans since DDPA.

Old and atavistic rivalries have shown to resurface as political conflict, although their real origins may be far deeper and murkier than the contours of current political parties:

- Kenya: The post-election violence in Kenya took the continent by surprise, leaving many to observe the ethnic lines that coincided with “tribal politics” and motivated criminal acts and settling of old scores, including land disputes, that left about 1,500 people killed and 355,000 others displaced from their homes soon after the controversial results of Kenya’s December 2007 presidential elections.

The UN estimates that over 255,000 people became internally displaced as a result of the violence and that more than 6,000 others have fled to Uganda as refugees.. A nation-wide "Operation Rudi Nyumbani" (Operation Return Home) aims to resettle the over 100,000 people still displaced. Police report also that 12,000 people are awaiting trial for crimes related to the postelection violence, while another 340 suspects of unknown identity remain at large. On 4 August 2008, the 400 member organizations of Kenya's National Civil Society Congress demanded action from Kenya’s president and prime minister in an open letter condemning also "documented and verified acts of police terror, intimidation, violence and impunity."

Racism and discrimination have combined with struggles over natural resources on the continent, erupting into armed conflict that crosses borders and burdens the humanitarian and peace-keeping efforts of the international system. Notable examples include the following:

- Sudan: The combination of racist motivations and behavior with the struggle over resources, subsequently politicized at the central level, has created an impression from the outside that race is the principal catalyst. Instead, the core of the conflict lies in a struggle over natural resources (water and land). When the postindependence government annulled traditional land tenure systems in favor of a title-based and centrally imposed land regime (e.g., with the Unregistered Land Act, 1970). The traditional symbiosis of pastoral and settled communities broke down, threatening the pastoralist’s survival. With intervening drought and famine, competition over these scarce resources intensified. Racial and political bias converged with Khartoum government support for armed surrogates among the pastoralists (mostly Arabic-speaking), leading to genocidal assaults on the settled populations (mostly Fur and other local communities). The Darfur war has resulted in the spilling over of refugees and conflict over the Chad border. Since the conflict escalated in 2003, between 300,000 and 400,000 Darfurians have been killed. At the present time, almost 2.4 million Darfurians (about 1/3 of the population) are internally displaced. Around 250,000 Darfurian refugees are living in refugee camps in Chad, with additional thousands living in villages inside the Chadian border and dispersed throughout the country. There are more than 180,000 Chadian IDPs who have settled around local villages and towns in the east, and approximately 25,000 Chadians who have sought shelter in Darfur after been displaced by cross-border militia skirmishes .

Other portions of the vast country have followed suit. The long civil war in Sudan carries overtones of racial and ethnic discrimination, not least from the perspective of the central government's consistent neglect of the non-Arab southern provinces and the late-1950s campaigns of Gen. Ibrahim `Abbud and successors to impose Arab language and culture and Islamic religion and legal systems on non-Muslim adherent citizens. While the warring parties ceased fire in 2002 and concluded a Comprehensive Peace Agreement in 2004, the government practice of arming and implanting Arab settlers in other traditional lands of the Nuba, Dinka and others is replicating the Darfur formula in advance of the 2011 referendum on the region's future.

Color-based racism manifests in other ways, leading to eviction and displacement. In Sudan, dating from the practices of racial profiling under the 1980s Nimeiri Administration, Khartoum police reportedly have carried out *kashsha* raids and banishment against Nuba and other dark-skinned persons in the capital. The legacy of that practice continues.

Asia

Violations as a specific consequence of xenophobia and discrimination against race, religion, indigenous people, migrants and Roma coincide with global practice. In Asia, interethnic and interminority discrimination, promoted by the state, have led not only to mass evictions but, additionally, either have promoted and/or exacerbated already present tensions that have led to conflict and war. Land disputes, some with historic roots, remain at the base of discrimination patterns that beg multilateral resolution.

- India: The world's biggest democracy also has been one of the biggest violators of housing and land rights of both the urban and rural poor, particularly nomads, Dalits and Adavasis, including forest dwellers. As HIC-HLRN parallel reporting on India attests, these displaced and dispossessed groups also swell the number of the urban homeless and under-housed.

Most violations committed against Dalits have their roots in the ownership and control of land. Some land reforms intended to benefit rural Dalits previously prevented from owning the land they cultivated. However, faulty legislation, weak implementation and the lack of state and federal response to non-Dalit landowners' resistance to Dalit presence. The caste system has maintained impunity of the dominant castes to own land and to use Dalits as laborers. This insidious form of descent-based discrimination plagues Dalits in India and is causally linked with numerous violations of Dalits' human rights. In addition, it represents a clear failure on the part of the state and federal government in fulfilling its obligation to protect Dalits' treaty-based and legislated rights to adequate housing and land.

The caste system and descent-based and work-based discrimination, though some Asian states deny its existence, is a continual fixture of the ongoing of the discriminatory systems of social stratification in the region. Adequate attention to resolving it is still wanting.

- India: Dalits have been especially victimized across the region, enduring millennia of institutionalized discrimination in everyday life, suffering brutal crimes and impunity of perpetrators under permissive criminal justice systems. Though legislation after the 1947 independence prohibited discrimination against the Dalits, and after some affirmative-action programs, Dalits continue to face obstacles to descent work, access to education and common human dignity. In Indian villages, people from the Dalit community have to have their own wells and cannot drink from the common tap; they cannot enter Hindu temples. Despite support from small African and Asian countries to bring the caste issue into the intergovernmental forum, the Indian government has insisted that caste is an "internal" matter and should not have been discussed at Durban.²⁷

In 2007, for example, 75 Dalits had their homes burned down by the Nepalese state. In 2003, Indian authorities evicted 7,000 Dalits from a park, where they had been compelled to live after being denied settlement in upper-caste areas. Park "beautification" was the pretext. In 2004, upper-caste individuals attacked 500 Dalits where they live and the police reportedly were reluctant to protect the Dalit victims.

Social and religious xenophobia and discrimination continues to smolder, flaring up in response to catalyzing events. One of the most volatile examples involves the friction between Muslim and Hindu, especially in India, where both faith communities coexist in large numbers and close quarters.

- India: Wanton destruction of houses and property was one of the primary consequences of the February 2002 riots in the State of Gujarat. The violence that predominantly targeted the Muslim religious minority denied more than 110,000 people the right to live in security, peace and dignity. People were forced to move to relief camps due to destruction of their houses, or because of fear for their physical safety. According to the Government of Gujarat figures, 104,318 people had sought refuge in relief camps by 28 April 2002, exactly two months after the violence started.

The government officially closed all but ten relief camps by mid-June 2002; however, many people continued to live in the "closed" camps, because they did not believe that their former homes were secure.

An independent survey, conducted under the auspices of India's National Human Rights Commission, estimated that at least 250,000 families were displaced due to the 2002 riots. About 50% of these families are still living in extremely low-cost permanent housing provided by NGOs, either without electricity, water and basic sanitation, or with State authorities requesting exorbitant amounts for those services.

Social cleansing of cities has led, for example, to the evictions of 100 Hijras (working class transgendered people) from their homes in Bangalore (November 2008). Bangalore police have led a wave of prejudice-driven violence and abuse in the city, following the October 2008 arrests of more than three dozen Hijras and human rights defenders.

The latest incident came immediately after several national newspapers reported that Bangalore police had captured a "gang" of Hijras whom local propaganda charged with having "kidnapped children, castrated them, and forced them into sex work." Police used these stories to justify the mass evictions of Hijras from their homes. Bangalore's Deputy Commissioner of Police reportedly advocated a "drive against the city's *eunuch* menace" [emphasis added].²⁸

On 9 November, Bangalore's Amrutahalli police station inspector ordered some 40 landlords in the Dasarahalli neighborhood (known for its ca. 100 inhabitants) to evict all Hijra tenants. Most Hijras then became homeless, losing security deposits and belongings.

Indigenous peoples, always at particular risk, have been a target of various government campaigns to remove them from historically held lands and, consequently, destroy their ways of life. Recent violations include:

- Pakistan: Two eviction waves of the Jumma Goth people in Pakistan (2007) displaced 7,750 persons. The Pakistani Government claimed that the Jumma Goth had lived on illegal settlements, although other new illegal settlements were left untouched. Bangladesh officials also have perpetrated violations against the Jumma by evicting 1,500 in 2005, and 4,000 again in 2008. Violations have either been carried out by the Bangladeshi government parties, or other settlers, but with army support.

- Vietnam: The Vietnamese government has been coercing the Krom into signing documents and giving up their land rights lands without compensation. The land is subsequently given to ethnic Vietnamese settlers. In a 2005 case, land taken through such coercion led to the eviction of an increment of 40 Krom.
- Bangladesh: In 2007, the government refused to recognize the ancestral land rights of 750 Mru families (approximately 3,750 persons) and evicted them from their lands.
- Philippines: Neighboring plantation owners evicted 115 Manobo families (approximately 575 persons) from public lands that they had settled after being evicted from a previous site. The Supreme Court has not ruled on the case of their land rights.
- China: Whereas, in occupied Tibet and East Turkestan, Chinese authorities deny both cultural and land rights of the occupied indigenous peoples. The occupation systematically has marginalized Tibetans and Uighurs on their own land through various means, including segregated and culturally destructive housing programs and the implantation of Han Chinese settlers. Tibetan housing blocks and neighborhoods also are denied basic amenities, infrastructure, education and health facilities, while settlers benefit from incentives. In recent years, a World Bank Poverty Alleviation Strategy (PAS) in eastern Tibet has enabled the Chinese government to dispossess and transfer Tibetan nomads, threatening the community's livelihood and culture. NGOs have helped defer this plan, but other regional development objectives continue to threaten Tibetan people.

The railway construction and agribusiness on nomadic land also have led to population transfer and land loss. The Chinese government has confiscated land without compensation, leaving families and communities destitute and on the margins of survival. Nomads' use of pastureland has been denied and nomads are unable to let land lie fallow. In a delicate ecosystem, the devastating long-term environmental effects spell an end to survival of the local population.

Tibetans are subject to severe forms of discrimination, including arbitrary arrest and related abuses if they speak about "rights." The central government considers rights language to be anti-Communist and, thus, anathema to the state ideology. In 2001, China forcibly has resettled 29,617 Tibetan nomads. The government has stated environmental concerns relating to land use and deforestation as the official reasons for the resettlement of Tibetan nomads. This may be a pretext for China's actual objectives of mining in the area. In 2006, 250,000 Tibetans were forcibly relocated through China's "comfortable housing program." And, in 2007, 100,000 Tibetan nomads were forced into towns and villages. Though China has cited environmental concerns as justification for resettlement of nomadic Tibetans, critics argue that resettlement is part of a broader Chinese goal of destroying Tibetan identity and sovereignty on their land, and traditional Tibetan way of life.

Inter-religious and interethnic conflicts, often coinciding with ongoing discriminatory policies and state instituted discrimination, play a key role in land and housing rights violations of distinct communities. Such violations in the context of inter-religious conflict have included:

- Thailand: The insurgency in the Muslim-majority Patani region, southern Thailand, has caused the displacement of an estimated 35,000 to 100,000 Buddhists in 2006, reportedly affecting victims in Yala, Narathiwat and Patani provinces.
- Sri Lanka: In 2006, the displacement of 520,000 people occurred in the conflict between the government and the LTTE. Ethnicity and religion underscore this conflict and both sides are guilty of the marginalization and discrimination against IDPs.
- India: 50,000 Christians have fled their homes in 2008 because of the violence aimed at them by Hindus. In addition 100,000 have been forced out of their homes due to clashes between tribal

groups and Muslim migrants. One minister has claimed that these violations are part of an ethnic cleansing program by the National Democratic Front of Bodoland.

Urban segregation, privatization and private developments illustrate new twists in the protraction of conflicts arising from discrimination, racism and xenophobia. With the ongoing global trend toward economic globalism and privatization of public goods and services, impoverished people are being directly targeted by state development, beautification and urban renewal projects. Thus, what is becoming a demarcation in the physical lay-out of most cities globally is the obvious segregation of the poor with slum and illegal settlement-clearing policies. Cases of this kind in Asia include:

- India: in 2006, the Government ordered the demolition of slums around the Porur Lak area, Chennai, causing the homelessness of 30,000 persons. In Mumbai, the India government has implemented an urban renewal plan to reduce the city's slum population from 60 to 20% and turn Mumbai into a world class city. The city has proceeded to demolish settlements constructed after 1995, arguing that people should return to where they came from. 25,000 people were evicted and their 5,000 houses set a blaze as part of this attempt, most of the victims of whom were lower castes, nomadic tribes and other minorities. Private development has also led to widespread evictions in India. One example was the forced displacement of 80,000 persons in 2006 off of lands designated for tribal peoples to make way for bauxite mining.
- Cambodia: Private development and interests have long served to evict and displace the poorest of society. In 2001, 7,010 persons were evicted and their shanty towns demolished in Phnom Penh to make room for luxury apartments and shopping centers. The evicted were resettled outside of the capital without adequate facilities. In 2008, 4,225 persons were evicted from the Boeung Kok Lake region, an area representing a source of livelihood for many and who also held legal titles to that land. The land has been sold to a company for commercial and residential development.
- Indonesia: in 2003, 1,000 persons were evicted from urban poor communities to make a road for a mall. Also, in 2003 5,900 persons were evicted to make room for graveyards.

Finally, evidence of discriminatory practices employed in Tsunami relief and rehabilitation efforts related to housing and land represent a unique, and ongoing, case of violations. Specifically, violations of the human right to housing resulted from discrimination on the basis of ethnicity, caste, gender and type of land tenure.²⁹

Caste: In Andhra Pradesh and Tamil Nadu (India), authorities provided less relief to lower caste Dalits and tribal peoples than to others. In some cases, Dalit communities were the last to receive temporary shelter, supplies and to have electricity restored. Inadequate compensation for the landless and for renters disproportionately affected Dalits, who were often tenants rather than property owners.

Gender and multiple discrimination: Women are disproportionately affected by natural disasters and as recipients of relief. Areas of discrimination in tsunami relief policies include:

1. Participation: In the planning of temporary housing as well as permanent communities and housing. In participating aid discrimination.
2. Nonallocation of land and loss of land title: Land for restoring permanent housing typically is allocated in the name of the *male* head of household. That resulted in a loss for women who held title before the tsunami, particularly in eastern Sri Lanka, where customarily land was inherited from mother to daughter.

3. Nonrecognition as heads of household: Compensation and supplies often have been given only to men; single mothers and widows frequently received less. Women also have been less likely to receive livelihood compensation.
4. Loss of privacy and physical security: Resettlement schemes sometimes have provided no space for bathing, and water sources are made far from the home, causing women to be exposed to indignities and physical threats.

Political Affiliation:

1. In Indonesia, initial relief efforts were restricted by the Government of Indonesia. Conditions imposed on aid agencies limited the assistance to areas that supported the GAM (Free Aceh Movement) in Aceh. The government provided no living allowance to those suspected of association with the separatist movement.³⁰
2. In the Andaman Islands (India), residents claimed that compensation was provided largely on the basis of party affiliation instead of need.

Nomads: In Thailand, tsunami-affected Thai Mokens (“sea gypsies”) received separate and inferior treatment. In one case, all the non-Moken survivors received larger relief packages. Many are also considered to be *noncitizens* and, therefore, were not eligible for government assistance.

Migration status: Migrant workers from Myanmar, residing in Thailand, often unregistered, faced obstacles to receiving humanitarian assistance. Many claim to have been discriminated against in aid camps.

IDPs: A significant portion of war IDPs in Sri Lanka became tsunami victims as well. In some cases, those victims received assistance similar to other tsunami victims. In other instances, however, IDPs were discriminated against in recovery efforts and in implementing their right to return. Permits given to the IDPs to live in 200m zones, for example, did not have the same status as title deeds, and the factors of discrimination against them combined their vulnerability due to armed conflict and tenure classification.

Landless: Agricultural workers and landless people (untitled tenure holders) in all tsunami-affected countries have experienced discrimination. For example, permanent housing was often allocated only to those who had previously held title, although all were affected.

Age and social status: In many cases in Sri Lanka and Tamil Nadu, orphaned children were not eligible for post-tsunami assistance. Instead, they were forced to live with relatives, or on their own, often in inferior conditions. These children, particularly young girls, were more vulnerable to sexual abuse and trafficking.

Latin America

The increased role of financial markets in the production of housing and infrastructure has produced a new form of social/economic class discrimination in metropolitan centers throughout the Latin American region. The Chilean government has acknowledged that its social housing practices were something less than an actual housing policy. Instead, policies to finance the construction of cheap housing sought to reduce the housing deficit and to improve the quality of life of poor families. However, the narrow policy instead engendered new urban ghettos for that segment of society, now with squalid and deteriorating housing.³¹

One of the most prominent features of land and housing violations in Latin America targets indigenous peoples. Repression and criminalization of landless people’s movements abound primarily in rural and periurban areas are common. Examples include:

- Brazil: The Quilombo communities have been a target of forced evictions and resettlements since 1986 to make way for the federal government-led effort to develop the Space Launch Center in Alcantara. Since the project's implementation 312 families have been relocated and in 2007 2,000 Quilombolas were threatened with mass evictions. In addition, the Brazilian government increasingly worked to repress and criminalize members of the Landless Rural Workers Movement (MST). In 2008, 300 persons were evicted in the vicinity of Fazenda Guerra from their legally occupied camps. The Attorney General's office in Rio Grande do Sul publically has characterized the MST as a threat to national security and, thus, called for its dismantling.
- Guatemala: The Government has been particularly repressive of the indigenous Q'eqchi who make up the Soledad Sayaxut community. That community has lived on what it believes is vacant land for generations and worked the land communally. Neighbouring landowners also have claimed rights to the Soledad Sayaxut community lands, though failed to provide any proof to their claims, nonetheless have colluded with the government forcibly to evict some 90 Q'eqchi families, or approximately 600 persons, in 2004.
- Colombia: The Colombian government evicted 6,000 people of Afro-Colombian origins. Aguablanca, where the evictees resided, is home to around 600,000 people, mostly Afro-Colombians, who live in extreme poverty and substandard conditions, have been forcibly evicted from their rural land or otherwise have fled natural disasters, misery and armed conflict. Left without alternatives they have illegally occupied government or privately owned land in the outskirts of Cali, where they have created neighborhoods by building shacks and basic houses without land titles. As more people arrive, battles arise between the people who are forced to create new neighborhoods and the government, which seeks to dislodge the dwellers.
- Mexico: 175 indigenous Montes Azules persons were evicted in 2000 on the pretext of conserving the environment; the communities have been threatened with removal from the Montes Azules Reserve. Ambiguity in government policy has given rise to clashes between communities, perpetuating tension and potential violence. The indigenous people naturally have mobilized to defend their agrarian rights and, in the 1990s, their movement was put down by the government, resulting in various and continuing violations of their economic, social and cultural human rights.

Urban segregation and private development, as with other regions, remains a continued source of housing and land rights violations in Latin America. This also has overlapped with particular targeting of indigenous communities. Recent violations include:

- Bolivia: The National Police violently evicted members of the landless and homeless movement from lands and buildings through this review period. The squatters' insistence on negotiating with local authorities reportedly has been denied. President Evo Morales announced plans to evict all "illegal settlements" in 2006, in that year displacing and dispossessing 2,500 persons.
- Costa Rica: Government evicted informal settlement of mostly Nicaraguan immigrants in three eviction drives over a two month period, resulting in the displacement of 5,000 Nicaraguans in 2006.
- Brazil: Lack of available land has forced many rural inhabitants into the urban areas, many to live in Brazil's *favelas*. Many of these settlements, particularly in the city of São Paulo, were evicted during 2005 and evictees have not been provided with alternative accommodation or compensation.
- Guatemala: On 8 January 2007, the GAR (private police) and the armed forces evicted 80 Mayan-Q'eqchi families from the La Pista community and 228 families from La Union, in the

region of El Estor, Izabal, Guatemala. On 9 January, similar forces evicted the community of La Revolución, also in El Estor, Izabal, rendering 175 Q'eq'chi families homeless. The Canadian mining company Skye Resources holds an exploratory mining license for 300 square kilometers of land in the municipality of El Estor. According to indigenous elders in the area, Skye is not the responsible mining company it claims to be. Many Q'eq'chi Maya say the company has reneged on its promises of corporate social responsibility, as illustrated by these forced evictions, affecting about 2,415 persons.

Europe and North America

Numerous studies have shown differences in loan denial related to race in the United States. Discrimination in loan conditions involve lenders often targeting low-income people in minority communities. Those persons otherwise would be considered too risky for conventional loans, but because of that credit profile, lender provide credit at considerably higher interest rates. About 46% of Hispanics and 55% of African Americans who obtained mortgages in 2005 received higher-cost loans, compared with about 17% of whites and Asians. That translates as material discrimination. In the first four years of a \$166,000 mortgage, for example, a subprime borrower typically would pay \$5,222 more than a similar borrower with a normal credit profile. Over 30 years, that borrower would pay \$35,874 more in interest payments.³² The demographics of subprime home loans show a 52.44% proportion of affected African-American families and 40.66% Hispanic families, but 22.20% white non-Hispanic families.³³

The Roma/Sinti populations have been, and continue to be subject to discrimination across Europe. Ranging from racist policies against them (e.g., Italy), to mass raids as part of “urban transformation” schemes (e.g., Turkey), the Roma are consistently and increasingly having the housing rights violated and, often, with State collusion. As by far among of the worst European violators of Roma rights, successive Italian governments have instituted increasingly racist policies against them. Moreover, encouraged by the government’s lack of protections for the Roma, locals have also been increasingly involved in violence against the Roma. In 2000–06, various state authorities evicted 15,000 Roma their homes throughout the Italy. In 2007, Italian authorities evicted 6,000 Roma and expelled many of them from the country. The evictions were frequently both unauthorized and involved the total destruction of Roma property. The government reportedly has made no attempts to intervene. Most recently, in 2008, 2,100 Roma were evicted from their homes in campaigns instigated by both local authorities and the civilian population. These campaigns are becoming increasingly systemized, especially under the right-wing coalition government since April 2008, coinciding with growing expressions of racism and xenophobia against the Roma and increasingly against other minority groups, particularly immigrants. However, Italy, has not been alone in its mistreatment of the Roma. Other notable cases in the Durban Review period include:

- 2002–04: Local authorities evicted 165 Roma in Bosnia and Herzegovina, most notably in Banja Luka. Reports from Poland indicate that, when Roma request suitable housing from the municipality, their applications are almost always refused, unlike other Poles, and the trend of actual and threatened evictions appears to affect Roma both in settlements and in municipal housing across Poland.³⁴ As of 7 July 2004, municipal authorities in Burgas, Bulgaria responded to civilian demands to remove the Roma from the Meden Rudnik neighborhood and destroyed at least 25 Roma dwellings, making 90 Roma and other residents homeless.³⁵
- 2005–07: Roma were evicted in Serbia and Montenegro (50), Slovakia (1,000), Czech Republic (280), Bulgaria (150), Albania (109), Russia (200), Turkey (800), and Greece (350). In all the cases, inadequate notice was given prior to the evictions and almost no alternative resettlement and/or compensation has been offered. Moreover, in many of those cases, the government has claimed that the Roma had illegally occupied public lands, even where the land had been settled

by the Roma for decades. In some case, as in Greece and Turkey, Roma were evicted under government policies of urban transformation, urban renewal and urban beautification. In other cases, as in the Czech Republic and Bulgaria, directed policies of racial segregation led to the evictions.

- 2007–08: Evictions of Roma took place in Greece, affecting 2,215, in Romania, making 110 Roma homeless, and in France, displacing 520, according to various reports.

Other forms of discriminatory policies have led to the mass evictions of other minority communities across Europe. In 2006, the UK government evicted 720 residents of Dale Farms under the guise of inadequate residency. However, this eviction is part of state policies against Traveller communities and is not unique. Previously, the UK government evicted approximately 750 Travellers in 2004 citing lack of proper planning documents.

France has been under recent public scrutiny for the eviction of 1,000 persons of African origin from its biggest squat in 2007. The French government raided the squat and carried out the evictions during the day when mostly women and children were home. The evictees were of Mali, Senegalese and Cote d'Ivoire origins. Alternate accommodation was offered only after a 7-week standoff. Through 1996–2006, the Croatian government evicted approximately 40,000 mostly poor and elderly holders of nominally owned flats under the new Lease Law (passed in 1996).

War and conflict continue to affect parts of Europe. The war in the former Yugoslavia continues to have a direct effect on returning refugees and IDPs, owing to unresolved tenure issues. In Croatia, for example, in 1991–2006, over 145,000 Croatian Serbs have been unable to return to their homes and/or access their agricultural lands. Further, as of 2006, 60,000 ethnic Ingush of Northern Ossetia have been unable to return to their homes from which they were originally displaced in 1992. Meanwhile, Ossetian refugees have occupied their homes, posing a recipe for continual interethnic conflict.

Urban beautification, gentrification and privatized development serve as cross-regionally cutting issues in Europe and North America. The Saami people in Sweden have increasingly had their land rights threatened by privatization. Saami areas in Sweden are currently experiencing an explosion in mining and wind power development. There has been an increase in both Scandinavian and foreign companies in prospecting, mining and wind power. Ironically, while many of these companies market themselves to investors based on principles of corporate social responsibility, companies often fail to see the connection between the impacts of their activities and the rights of the Saami. As of 2008, 20,000 Saami have been affected by these private developments.

The 2012 Olympics preparations in the UK already have begun revealing the xenophobic policies directed against the poor. Already in 2007–08, many residents and businesses faced evictions, and housing prices are increasing dramatically. The construction of venues will disproportionately affect the poor, low-income groups, public-housing residents, foreign students and ethnic minorities. In Canada, Vancouver's 2010 Olympic gentrification has led to the evictions of 1,050 low-income people. In the United States, privatization of public housing is having disastrous affects on many: over 2002–06, 70,000 persons were affected by Chicago with Housing Authority's sealing off of public housing units. In 2006, 20,000 persons having been affected as the New Orleans Housing Authority demolished habitable units and reduced the number of public housing units built. Mostly excluded were the poor and Black residents.

Across North America, increasing violence toward the homeless has become an issue of public debate in recent years. While the homeless are increasingly finding themselves unprotected by the

government, eviction of the homeless has served as an interim government solution to remove the homeless from the public view. In 2007, for example, city authorities evicted 30 homeless persons in Edmonton and 50 in Montreal from public spaces with alternative dwellings. At the local level, instead of working constructively to help homeless people, many communities have criminalized homelessness, as exemplified in Los Angeles' Skid Row or the Minneapolis "lurking" ordinance, with police targeting homeless African-Americans at alarmingly disproportionate rates.³⁶

Middle East and North Africa

Throughout the Durban Review period, the MENA region has continued to be plagued with war, poverty, colonization, occupation, intercommunity conflict involving various forms of racism, racial-discrimination, xenophobia and related intolerance. While the region itself is historically no stranger to conflict, colonial practices combined with continued external neocolonial domination and internal fragmentation have exacerbated violations and tensions in the MENA.

War and conflict are, by far, the sources of the greatest number of violations. Besides, but not unrelated, U.S. and European interventionist policies, including the "War on Terror," not only have led to direct displacements and societal disintegration, but also have been the cause of extended misuse of government power locally. The U.S.-led Iraq invasion has led to the displacement of over four million Iraqis between 2003 and 2008, and triggered the political stability of both Iraq and neighboring countries. Inside Iraq, violations occur daily as a consequence of the racist and/or discriminatory practices of U.S. and other occupying soldiers toward Iraqi persons, in general, involving house demolitions conducted with impunity under the pretext of counterinsurgency. The lack of order and sovereignty of the Iraqi government has coincided with an eruption in inter-religious tensions that have made Iraq one of the most dangerous countries today. Further, the displacement of millions of Iraqis to the neighboring countries of Syria, Jordan, Lebanon and Egypt has also led to intercommunity tensions. Finally, the so-called "War on Terror" has allowed for authoritarian governments in the region to implement new antiterror laws and, thus, given free reign to ideological profiling and lack of due process, enabling abuses against an undersupply of human rights defenders of refugees, migrants and the perennial poor. More broadly, antiterror laws and related behavior outside of the region have been the cause of various racial profiling practices at borders and airports throughout the West, restricting freedom of movement and residency rights.³⁷

Occupation in various parts of the region also represents another major source of violations. By far the worst ongoing occupation has been the Israeli occupation of Palestinians and Palestinian territories. Further, Israel's domestic discriminatory law and *hafrada* (apartheid) policies have been thoroughly covered in the Palestinian civil society's position paper for the Durban Review Conference.³⁸ HIC-HLRN also endorsed that position. In addition to that submission, it is relevant to highlight the following:

- The recent Israel "Operation Cast Lead" various defied international humanitarian and human rights law, while particularly atrocious has been the direct targeting of homes, shelters, public infrastructure and other civilian objects. These specific gross violations and grave breaches have coincided also with official and other incitement to carry out acts of genocide and population transfer against the Population of the Gaza Strip.³⁹
- The role of the Israel's parastatal organizations, namely the World Zionist Organization (WZO), the Jewish Agency for the Land of Israel (JA) and the Jewish National Fund (JNF) drives discriminatory government policies, leading to land confiscation, other forms of dispossession, institutionalized discrimination, ethnic cleansing, discrimination in housing and other violations against the indigenous Palestinian people, whether as citizens of Israel, residents of the oPt, or refugees living outside their country. In their Concluding Observations, UN treaty bodies serially

have registered their concerns over the discriminatory nature and governmental functions of JNF and Israel's other "national institutions" as incompatible with human rights treaty obligations.⁴⁰ In their concluding 1998 observations, the CESCR noted

"with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant."⁴¹

In March 2007, yet another UN treaty-monitoring committee, CERD, emphasized the legal obligations that the WZO/JA and JNF, operating on behalf of the state, therefore must maintain principles of nondiscrimination. In the case of both treaty bodies, the state party has failed to provide sufficient information requested "on the status, mandate and responsibility of the World Zionist Organization, the Jewish Agency and the Jewish National Fund, as well as about their budgets and allocation of funds. It is concerned by information according to which these institutions manage land, housing and services exclusively for the Jewish population. (Articles 2 and 5)."⁴²

- Israel's treatment of the Palestinian Arab Bedouin population, as Israeli citizens lacking the status of "Jewish nationality," has been unlawfully discriminatory and perpetuates deprivation and conflict. Israeli authorities and institutions continually have demolished Bedouin homes in the Naqab/Negev as part of ongoing policies to "develop" the Naqab and Galilee as areas of demographic domination by "Jewish nationals" through violence and dispossession. Moreover, the State has refused to recognize dozens of Bedouin villages in their native areas and, thus, has denied them services and infrastructure otherwise lavished on incoming settlers enjoying the superior status of "Jewish nationality" with the further support of the parastatal institutions.

Occupation has also affected other groups in the MENA to various degrees. These include the following:

- Iran: Land confiscations against Ahwazi Arab citizens in Iran have forced many from their farms into city slums, or exile. In 2007, land confiscation has affected approximately 15,000 Ahwazis.
- Morocco and Western Sahara: Morocco, as the occupying power in Western Sahara, discriminates in favor of its own settlers through incentives to populate the occupied zone. Morocco has invested heavily in the "development" of the territory for its purposes, unlawfully exploiting Sahrawi natural resources and favoring settlers in employment and subsidizing their food commodities, fuel, energy, water, medical care and education. Moroccans in the territory working for government and state agencies are paid 85% more than their counterparts in Morocco, and are exempt from income tax and value-added tax. Morocco diverts an estimated US\$2 million daily to maintain the militarized border and support the settlers. Meanwhile, majority of the total 300,000 Sahrawis (ca. 160–200,000) live in Algerian territory, separated from the unoccupied parts of their country by a 2,270 km-long Moroccan-built earthen wall and unable to return.

Discrimination based on caste and ethnic backgrounds is common in the region and a source of ongoing violations. Examples include:

- Kurds: The Kurds form the second biggest ethnic group in Turkey with 15–20 million people. Discriminatory practices affecting housing and land rights have been outright, and Turkish state authorities have destroyed over 3,500 Kurdish villages for “security reasons” during 1991–96, displacing over three million people and killing thousands. In several Anatolian cities, Kurds have occupied government land building shantytowns and *gecekundular* (houses built overnight). These continue to be denied any amenities and services and deepen the impoverishment of Kurdish citizens of the Turkish Republic.

The daily suffering to the Kurdish people is further aggravated by a loss of hope of reparation for the loss of their homes, lands and livelihoods. Families move from town to town with little or no money, unable to find living quarters. Shantytowns that have sprung up as a result have no access to water, sanitation, health or education facilities. Turkification policies and state ideology attempt to assimilate the Kurds and deny them economic, social and cultural rights as Kurds and as equal citizens.

In Iraq, 200,000 Kurds were evicted from homes as a result of war and conflict in 2006. However, in a vengeful reversal of the Ba`thist population transfer carried out previously against Iraqi Kurds under the nefarious Anfal Campaigns, this review period saw Kurds forcibly expelling Arab and other ethnic residents in the Kurdish administration area of northern Iraq, including those living there for decades prior and unrelated to the Ba`thist population transfers. During the same period, The Coalition Provisional Authority established the Iraqi Property Claims Commission (now Commission for the Resolution of Real Property Disputes—CRRPD) to settle old scores, but was procedurally flawed and failed to uphold guaranteed rights, while excluding other victims of similar and ongoing violations, and exempted Coalition authors of similar crimes from liability.⁴³

- Roma: Like in Europe, Roma are affected to various degrees and in different parts of the MENA. In Turkey development based land confiscation, particularly urban transformations of the Istanbul metropolitan, has directly affected Roma groups. In 2007, 1,000 Roma were evicted from homes in Hatice Sultan (Sulukule) and another 300 were evicted in Yildizbakkal.
- Akhdam: In 2008, 800 persons of the Akhdam, or untouchable, population were evicted from homes by the Government of Yemen for not being able to afford the costs of their homes. This follows a pattern of subjecting Akhdam to forced eviction and deliberate physical endangerment, including burning of their homes with impunity, in a context of entrenched social discrimination and “untouchability.”⁴⁴

Violations stemming from poverty and poor economic conditions abound in the region. Recent examples include:

- Egypt: Over 1998–2008 the Egyptian government evicted some 46,000 persons from 1,200 informal settlements. In 2008, local authorities evicted 4,000 families in the Tusan District of Alexandria toward the elimination of all informal settlements. Evictions took place without any plans for replacement housing or housing solutions for the poorest families. Also in 2008 2,000 persons were evicted from their lands as the State seized lands for “urban development.” New cities are rapidly cropping up in the urban extremities of Cairo, where planners and public need to be less dismissive and resentful toward the poor.⁴⁵

Question 3: Identify concrete measures and initiatives combating and eliminating racism, racial discrimination, xenophobia and related intolerance

The list of measures and initiatives of which States may employ in order to ensure the effective implementation of the DDPA is extensive. A brief suggestion of such actions is as follows:

- It is understandably impossible to list all obligations of State, particularly those arising from legislation at the national level. However, it is not beyond the scope of the DOD implicitly to recognize that the binding “obligations” are those enshrined in the various UN human rights treaties and international humanitarian law. In this way, it becomes clear to all State participants that the minimal standard of treaty obligations, including their attendant duties and accountability, needs to be upheld and *progressively* realized. Further, recognizing and acknowledging those binding duties reaffirms the international community and international law as sources of accountability to which victims can also have access.
- This includes the need for developing clarity on the concept of state responsibilities, duties and liabilities under extraterritorial obligations (ETOs) under human rights treaties and general principles of international law. States and legal practitioners need to understand better how such ETOs bind states to respect, protect and—in some cases—even to fulfill economic/social/cultural rights in their external behavior, especially as that relates to the human right to adequate housing and land rights.⁴⁶
- Emphasis is still needed on measures for the protection of nomadic indigenous populations, as they are often historically discriminated against in ways different ways from other groups. Specifically, they are often not only discriminated against racially but, more importantly, contempt for their way of life forms a core impetus for discrimination.
- It is especially important to make more-specific mention of housing and land rights, as most conflicts today, including interethnic and interracial, illustrate how land and housing rights form a consistent source and subject of discrimination, as well as the keys to resolution of the same conflicts.
- Recognition of neocolonialism and military occupation within the context of *institutionalized discrimination*, is needed. These situations generate unique and pervasive violations founded on inherent discrimination within the state system and dominant ideology. While the Palestinians are an oft-cited example as victims, mention should also be made of other analogous groups facing similar violations, including the Kurds, Tibetans, Western Saharans, Ahwazis, Uighurs, the people of Nuba Mountains (Sudan), and others. All of these groups, among others, have experienced or currently undergo demolitions, displacement and land dispossession. Finally, housing demolitions and forced evictions for their prevalence in occupation should be mentioned as a specific manifestation of the racism and discrimination.
- Economic Neocolonialism is a modern extension of historical ideologies of domination. It is demonstrated in a variety of instances including, direct occupation, indirect control through economic systems of weaker nations, and pervasive ideologies (i.e., Western-defined ideologies of “neoliberalism” and/or “free-market development”). This has worked to disable national political, social and economic systems, as well as state roles, responsibilities and even authority vis-à-vis citizens. Likewise, the character of economic globalism continues to retard multicultural, pluralistic and indigenous lines of development. It is vital that concepts of equality be broadened in the DOD to contribute positively toward broader parameters of discourse over matters related to the subjects of the Durban Review Process.
- The DOD should acknowledge that the ongoing global economic crisis and recession in many countries likely will lead to a reduction in income for particular sectors of the population and that, therefore, affordable adequate housing is an even more urgent need than foreseen at Durban. Therefore States should take meaningful steps promptly to increase the availability of adequate housing options, including rental housing.
- It is particularly important for the Durban Review Process and DOD that the human rights to adequate housing be recognized as fundamental to the effort at eliminating discrimination that

deprives millions. The world outside the Durban Review Process increasingly acknowledges that women, noncitizens and migrants often bear a special burden, being more excluded or “ghettoized” in the spatial setting of cities.

- Since reparations (including apologies) have been made few and uneven in the past, none has implemented the reparations framework as reiterated in GA resolution A/60/147. Thus, more thoughtful recognition of the problems and solutions pose in applying the reparations framework is needed on the subject in para. 167 of Section 1.
- While expanding the OHCHR’s Antidiscrimination Unit is welcome, other practical and institutionally and legally-empowered means are needed for monitoring and remedying racism, racial discrimination, xenophobia and related intolerance both within the UN system and in the field. Strengthening the treaty monitoring system is indispensable, and, therefore, overlooking or supplanting CERD with efforts to build less legally authorized bodies as delinked from CERD.

Endnotes

- ¹ The Housing and Land Rights Violation Database (VDB) is available at <http://www.hlrn.org/english/violation2.asp>. All cases cited in this questionnaire are detailed in the VDB. All inquiries for further information should be directed to HIC-HLRN, 11 Tiba Street, 2nd Floor, al-Muhandisin, Giza, Egypt. Telefax: +29 (0)23 760–0755; email: hlrn@hlrn.org; Web: www.hlrn.org.
- ² Paragraph citations refer the Declaration portion of the DDPA.
- ³ Michael Banton, “the causes of, and remedies for, racial discrimination” (background paper E/CN.4/1999/WG.1/BP.6, 26 February 1999 (excerpt). Banton adds: “28. Residential segregation leads to segregation in the schools and reduces contact between children belonging to different ethnic groups. In many immigrant-receiving societies, especially in the towns, parents now have greater opportunity to select schools for their children. Competition for places in the schools with the best examination results is intense. Parents tend to shun schools with a high proportion of pupils from racial and ethnic minorities so that *de facto* segregation can appear in the school system. The Habitat Agenda adopted at the United Nations Conference on Human Settlements in 1996 in paragraph 27 highlighted the priority due to the avoidance of discrimination in settlement patterns but failed to underline the way that patterns of inequality, once established, can then be a major cause of the transmission of inequality from one generation to the next. 29. Remedies for residential segregation must relate to the ways in which housing markets operate. Individuals who personally experience discrimination must have access to recourse measures but frequently they need professional support, especially if they allege discrimination on the part of a public body like a municipality. There is a special function for enforcement agencies in connection with the regulation of the financial side of house purchase.... 30. In very many countries questions of residential segregation linked with racial and ethnic difference receive far too little attention. As with discrimination in employment, experience shows that only by conducting research into the nature and consequences of this kind of discrimination is it possible to generate support for the introduction of legal and administrative remedies. Experimental research into what happens to would-be house purchasers or to those seeking to rent apartments could be modeled on the research sponsored by the International Labour Organization into discrimination in the workplace. The Programme of Action to be considered at the World Conference might recommend that either the United Nations Centre for Human Settlements or the United Nations Research Institute for Social Development undertake this responsibility.
- ⁴ The inverted interpretation of the concept of “social cohesion” of individual communities as a basis for legalized segregation and material discrimination between different classes of citizens is exemplified in decisions of the Israel Lands Administration Council (Decision No. 1015). See Suhad Bishara, “On Class and Nationality in Housing Rights,” Adalah’s Newsletter, Volume 11 (March 2005), p. 1, at: <http://www.adalah.org/newsletter/eng/mar05/ar1.pdf>. See also HIC-HLRN (in conjunction with Sajha Manch) *Restructuring New Delhi’s Urban Habitat: Building an Apartheid City?* Fact-finding Report No. 5 [on the resettlement process of Delhi, India] (New Delhi: HIC-HLRN, South Asia Regional Program—SARP, 2001)
- ⁵ George Soros, *The Bubble of American Supremacy: Correcting the Misuse of American Power* (New York: Public Affairs, 2003).
- ⁶ Gavin W. Anderson, *Constitutional Rights after Globalization* (Oxford: Hart Publishing, 2005).
- ⁷ John H. Carr and Lopa Kolluri, “Predatory Lending: An Overview,” Fannie Mae Foundation, August 2001; Christopher A. Richardson, *Predatory Lending and Housing Disinvestment* (May 2002), available at: <http://ssrn.com/abstract=338660> or DOI: 10.2139/ssrn.338660.
- ⁸ National Law Center on Homelessness & Poverty (NLCHP) and National Low Income Housing Coalition (NLIHC), with assistance of WilmerHale, *Without Just Cause: A 50-State Review of the (Lack of) Rights of Tenants in Foreclosure*, 25 February 2009, at: http://www.nlchp.org/content/pubs/Without_Just_Cause1.pdf.
- ⁹ African-Americans account for 12% of the United States population, but comprise 40% of all homeless people. Elizabeth E. Sparks, “African Americans and Mental Health,” *Encyclopedia of Multicultural Psychology* (2006), pp. 21–27, at 21.
- ¹⁰ Rick Pataky, “Ethnicity,” *homelesslink*, at: <http://www.homeless.org.uk/policyandinfo/issues/race/>.
- ¹¹ “U.S. Racial Discrimination Must Be Remedied, Post-Katrina Housing Rights Violations Also Cited,” NLCHP press release, 12 March 2008, at: <http://www.nlchp.org/news.cfm?id=39>
- ¹² The continued monitoring and advocacy work of HIC-HLRN seeks to contribute to that process, in part through cooperation with the current ETO Consortium project of cooperating human rights organizations.
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- ¹⁵ Rainer Nordberg, “Alleviating poverty through housing development,” *Habitat Debate* 6(4) (2000).
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- ¹⁷ Article 5, section XXIII: “property shall fulfill its social function.”
- ¹⁸ Full text of the Constitution of Ecuador, adopted 28 September 2008, at: http://www.hlrn.org/img/documents/Constitucion_del_Ecuador_2008.pdf.

- ¹⁹ “Regularization of quilombo lands is theme of national campaign,” *Noticias Socialambiental* 31 August 2004, <http://www.socioambiental.org/e/nsa/detalhe?id=1818>. The CERD Committee recommended that the State party accelerate the process of identification of *quilombo* communities and lands and distribution of the respective title deeds to all such communities. *Ibid.*, para. 16.
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⁴⁰ E/C.12/1/Add.27, 4 December 1998, paras. 11, 35; E/C.12/1/Add.90, 23 May 2003, para. 27; CERD/C/ISR/CO/13, 14 June 2007, para. 19.

⁴¹ Concluding Observations of the Committee on Economic, Social and Cultural Rights, 4 December 1998, E/C.12/1/Add.27.

⁴² Concluding Observations of the Committee on the Elimination of Racial Discrimination, 9 March 2007, CERD/C/ISR/CO/13, 9 March 2007.

⁴³ See analysis of the Iraq Property Compensation Commission *Restoring Values: Institutional Challenges to Providing Restitution and Compensation for Iraqi Housing and Land Rights Victims* (Cairo: HLRN Middle East/North Africa. 2005) [Arabic and English].

⁴⁴ HIC-HLRN, "The Human Right to Adequate Housing in the case of al-Akhdam (Yemen)" [submission to CERD], (2006); also "Concluding observations of the Committee on the Elimination of Racial Discrimination: Yemen," ERD/C/YEM/CO/16, 19 October 2006, paras. 8–9, 11, 15–17.

⁴⁵ At the recent local symposium "Urban Trajectories of Cairo," (Kharita project), discussion with professionals and students repeatedly referred to a potential problem of impoverished Egyptians "trespassing" on the New Cities, at: <http://pericentreprojects.org/>.

⁴⁶ The continued monitoring and advocacy work of HIC-HLRN seeks to contribute to that process, in part through cooperation with the current ETO Consortium project of cooperating human rights organizations.