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**Submission to the Special Rapporteur on the right to adequate housing for the  
report on discrimination, segregation and the right to adequate housing**

**Sexual Rights Initiative**

**May 2021**

This submission is made by the Sexual Rights Initiative (SRI). The Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Poland, India, Egypt, Argentina and South Africa, that work together to advance human rights related to sexuality at the United Nations.<sup>1</sup>

**Introduction**

1. This submission focuses on the impact of discrimination based on gender and sexuality norms. Specifically, it addresses how ideas and norms around gender impact access to and retention of housing. These discriminatory norms are perpetuated by the state through laws and policies like red zoning, instituting de-facto boundaries, and the imposition of segregation based on race, class, ethnicity, religion, caste etc. These discriminatory norms endure and are perpetuated and enforced by societies and people, with severe and lasting consequences including for single women, gender non-conforming persons among others. The submission highlights the ways housing and home are seen as the purview of “the family” underpinned by patriarchal heteronormative norms. Consequently, any deviation means exclusion from communities, including a spatial exclusion. The submission gives an overview of the impact of criminalization of sex work on sex workers’ housing rights, provides detailed information on housing discrimination and spatial segregation against sex workers in Canada, and argues that the decriminalization of sex work is key to the realization of the rights to housing and to equality. Finally, the submission addresses the impact of colonialism on housing and segregation, and outlines the gendered impacts on housing of neo-liberal economic policies including IMF-imposed structural adjustments and austerity measures, especially in the Global South.

**Gender and housing**

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<sup>1</sup> For more information about the Sexual Rights Initiative, please see <http://www.sexualrightsinitiative.com/>

2. Gender inequality and gender norms profoundly shape access to housing, resulting in increased risks of housing instability, unsafe living conditions, homelessness and violence for many women and girls across the world.<sup>2</sup> Housing discrimination based on gender has its roots in gender stereotypes which are ingrained with ideas of “respectability.” This can manifest in housing discrimination against single women, lesbian and trans women, and sex workers, among others.
3. The notion of “respectability” has long been linked by feminists to the institution of marriage, through which “the state accord[s] legitimacy to some kinds of intimate relationships and consensual sex, but not others, [which] goes against basic ideas of feminist freedom”<sup>3</sup> and through which, traditionally in heterosexual marriages, women are expected to provide unpaid care and reproductive labor as well as sexual satisfaction to their husbands.
4. In the context of housing, this notion of respectability is embedded in the conception of the home as the purview of “the family.” Jessie Hohmann’s analysis on the right to housing and on housing as social control delves into this association between houses, households and families: “In many cultures, and certainly in the West, the assumed preferred living space of an individual is the family house, occupied by spouses and their dependent children.”<sup>4</sup> This means that “the home and family are practically inseparable not only in their conception, but also in their history: the rise of the home as an ideal and social practice was closely linked to the creation of women’s roles as homemakers,”<sup>5</sup> which has had impacts in many places through the colonial and neo-colonial imposition of western social and economic models and practices.<sup>6</sup>
5. The conception of housing as the purview of the family manifests by making women’s access to and ability to retain housing dependent on their marital status, their relationship status or more broadly on their relationship with a male partner or relative.<sup>7</sup> It also

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<sup>2</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, 2020, <https://www.undocs.org/A/HRC/43/43>, para. 49.

<sup>3</sup> Marso, Lori Jo. 2010. "Marriage and Bourgeois Respectability". *Politics & Gender*. 6 (01): 145.

<sup>4</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 185.

<sup>5</sup> SJ Schnably, “Property and Pragmatism: A Critique of Radin’s Theory of Property and Personhood” (1993) 45 *Stanford Law Review*: 365, as cited in Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 185.

<sup>6</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 185.

<sup>7</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, 2020, <https://www.undocs.org/A/HRC/43/43>, para. 49.

sanctions heterosexual marriage while rejecting singlehood<sup>8</sup> as well as other relationships that do not fit the heterosexual married mold, whether they be unmarried, homosexual, friendships, or otherwise non-normative. This in turn manifests in housing discrimination against single women, lesbian, bisexual or queer women whose living arrangements are perceived as indicative of some form of sexual “deviance,” “promiscuity” or “immorality,” as well as trans women and gender-non-conforming persons whose gender expression is deemed to deviate from the patriarchal, “respectable” norm.<sup>9</sup> It also impacts women who are removed from their home following a divorce, denied legal capacity to own property,<sup>10</sup> and widows who are prevented by law or practice from inheriting land or property, and can be subjected to banishment and “property grabbing” by their husband’s relatives.<sup>11</sup> As detailed later in this submission, it also has pervasive impacts on sex workers, who are often assumed not to be ‘mothers or parents’ or part of the community or of families, and consequently are not deemed worthy of having their rights protected.

6. The UN human rights framework has reinforced this conflation of housing and the home with the family, for instance through the formulation of the right of everyone to an adequate standard of living, including adequate housing, “for himself and his family” in the International Covenant on Economic, Social and Cultural Rights.<sup>12</sup> Although the Committee on Economic, Social and Cultural Rights later clarified that this provision should not be interpreted to limit the applicability of the right to housing to individuals or to female-headed households,<sup>13</sup> the original phrasing reflects the male and family-focused dimensions of the framing, interpretation and implementation of the right to housing in international human rights law.
7. The widespread commitment to patriarchal norms and to the idea and ideal of the family, and its translation into housing laws, policies and practices<sup>14</sup> need to be interrogated and challenged in the context of this report. It is visible in research by UN Habitat indicating “two major gender gaps in housing policies and processes - the reality of changing

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<sup>8</sup> See e.g. Lilian Chee, « Unhousing sexuality: Sexuality and singlehood in Singapore’s public housing. » in Pilkey, Brent, Rachael M. Scicluna, Ben Campkin, and Barbara Penner. 2020. *Sexuality and gender at home: experience, politics, transgression*. <https://www.taylorfrancis.com/books/9781003086666>

<sup>9</sup> See e.g. Chant, Sylvia. “Cities through a ‘Gender Lens’: A Golden ‘Urban Age’ for Women in the Global South?” *Environment and Urbanization* 25, no. 1 (April 2013): 9–29. Page 18. <https://doi.org/10.1177/0956247813477809>.

<sup>10</sup> CEDAW General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution), CEDAW/C/GC/29, paras. 43-44.

<sup>11</sup> *Ibid.*, paras. 49-50.

<sup>12</sup> International Covenant on Economic, Social and Cultural Rights, Article 11(1). Another example is the status of the family as “the natural and fundamental group unit of society [which] is entitled to protection by society and the state” in article 16(3) of the Universal Declaration of Human Rights.

<sup>13</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, para. 6.

<sup>14</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 186.

families and households and the growth of women-headed families in cities and in slums as well as the need for the collection and use of disaggregated data on a number of variables to inform housing policies, programmes and practice.”<sup>15</sup> It is also closely linked to the presumption that certain needs – ranging from care work to the provision of adequate housing - are private, family matters rather than rights entitlements with corresponding State obligations, and therefore do not need to be meaningfully addressed by public policy.<sup>16</sup>

## Domestic violence and housing

8. In addition to the exclusionary effects detailed above for anyone deemed outside of that institution, the conception and enforcement of “home” and housing as a site for the family also means that even for women and girls who do have access to housing, there is a need to change the conception of home as “safe,”<sup>17</sup> to question the gendered aspects of the notion of “adequacy” of housing,<sup>18</sup> and address it as the site of patriarchal control it often is.<sup>19</sup>
9. Women’s housing instability is closely linked with their exposure to domestic and intimate partner violence, which puts them in the impossible position of a false “choice” between becoming homeless or staying in unsafe environments and abusive relationships.<sup>20</sup> In the absence of shelters, women can then be exposed to further violence in the streets or avoid the streets altogether, especially when also caring for their children, which may indirectly disqualify them from eligibility for programs aimed at persons living in more visible forms of homelessness.<sup>21</sup> In fact, the right to housing necessarily includes the right to live free from domestic violence, and their violations share

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<sup>15</sup> UN Habitat: *Women and housing: Towards Inclusive Cities*. 2014.

<https://unhabitat.org/sites/default/files/download-manager-files/Women%20and%20Housing%20Book.pdf>, page vi.

<sup>16</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 186.

<sup>17</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal: COVID-19 and the right to adequate housing: impacts and the way forward, A/75/148, 2020, <https://undocs.org/A/75/148>, para. 9.

<sup>18</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/19/53, 2011, <http://www.undocs.org/A/HRC/19/53>, para. 4.

<sup>19</sup> In its report on discrimination against women and girls in cultural and family life, the Working Group on Discrimination against Women and Girls analyzed the family as a cultural space in which many violations of women’s rights take place and as “a product of patriarchal culture and a vital institution for upholding the patriarchy.” (Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/29/40, 2015, <https://undocs.org/en/A/HRC/29/40>, para. 22).

<sup>20</sup> OHCHR: Women and the right to adequate housing (2012), page 76. Available at [https://www.ohchr.org/Documents/Publications/WomenHousing\\_HR.PUB.11.2.pdf](https://www.ohchr.org/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf)

<sup>21</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, 2020, <https://www.undocs.org/A/HRC/43/43>, para. 51.

commonalities for many women experiencing a form of forced eviction as a result of domestic violence.<sup>22</sup> As Giulia Paglione points out, “women forced to abandon their homes by their violent partners and individuals forced to leave their homes by state agents are victims of the same process; they are coercively removed from their homes, chased away, and left without their possessions and with no alternative place to go.”<sup>23</sup>

10. The direct causal link between domestic violence and homelessness has been reasserted by successive Special Rapporteurs<sup>24</sup> and treaty bodies,<sup>25</sup> and has been exacerbated during the COVID-19 pandemic. The health and economic crisis has jeopardized many women’s incomes and ability to pay rent while also facing a dramatic increase of gender-based violence, the closure of many women’s shelters,<sup>26</sup> and a global increase in forced evictions.<sup>27</sup> The lack of disaggregated data on the impact of the pandemic on housing discrimination based on gender, race, caste and ethnicity is an example of the ways in which housing for marginalized people is de-prioritized during the crisis.<sup>28</sup>

### **Bodily autonomy, substantive equality and the right to housing**

11. As highlighted by previous mandate-holders, “securing women’s right to adequate housing ultimately ensures greater autonomy for women in all areas of their lives”<sup>29</sup> and “the right to housing must be recognized as a central component of women’s right to substantive equality, which requires that laws, policies and practices be altered so that

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<sup>22</sup> Paglione, Giulia. 2006. "Domestic Violence and Housing Rights: A Reinterpretation of the Right to Housing". *Human Rights Quarterly*. 28 (1): 120-147.

<sup>23</sup> *Ibid.*, page 139.

<sup>24</sup> See *e.g.* Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, Miloon Kothari: Women and adequate housing, E/CN.4/2006/118, 2006, <https://undocs.org/E/CN.4/2006/118>; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/19/53, 2011, <http://www.undocs.org/A/HRC/19/53>, paras. 21-22; Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, 2020, <https://www.undocs.org/A/HRC/43/43>, para. 51.

<sup>25</sup> See *e.g.* CEDAW General recommendation No. 33 on women’s access to justice, CEDAW/C/GC/33, 2015, <http://www.undocs.org/CEDAW/C/GC/33>, para. 16(b); CEDAW General Recommendation No. 35 on gender-based violence, CEDAW/C/GC/35, 2017, <https://undocs.org/CEDAW/C/GC/35>, para. 31(a)(iii).

<sup>26</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal: COVID-19 and the right to adequate housing: impacts and the way forward, A/75/148, 2020, <https://undocs.org/A/75/148>, para. 53.

<sup>27</sup> “Ban evictions during COVID-19 pandemic, UN expert urges” (18 August 2020): <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26170&LangID=E>

<sup>28</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal: COVID-19 and the right to adequate housing: impacts and the way forward, A/75/148, 2020, <https://undocs.org/A/75/148>, paras. 6 and 10.

<sup>29</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/19/53, 2011, <https://undocs.org/A/HRC/19/53>, para. 4.

they do not maintain, but rather alleviate, the systemic disadvantages that women experience.”<sup>30</sup> Substantive equality requires that all the ways in which women experience discrimination, whether direct or indirect, be tackled – which necessarily includes addressing intersectional discrimination against women who are marginalized and criminalized, including on the basis of race, ethnicity, caste, disability, migration status, health status, or income.

12. Just as the right to housing should be viewed as a central component of women’s right to substantive equality, it should also be seen as a prerequisite for the fulfillment of their right to bodily autonomy. Indeed, “housing’s materiality invites consideration of the relationship between space, rights and existence in ways that illuminate the fundamental, material, connection of *all* rights to the human body.”<sup>31</sup> The concept of bodily autonomy goes beyond a narrow conception of “choice” but interrogates and encompasses the options and material conditions available to people for the exercise of autonomy and self-determination over their bodies and lives, without coercion, discrimination, or interference from the State, family, society and other external elements.<sup>32</sup> Access to adequate, safe and affordable housing and the right to substantive equality are among the conditions required for that exercise and for many associated human rights which require a holistic rather than siloed approach.<sup>33</sup>

### **Criminalization of sex work and housing discrimination against sex workers**

13. As sex workers movements have long advocated, and as reaffirmed by several Special Procedures mandates, laws criminalizing sex work are inherently discriminatory,<sup>34</sup>

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<sup>30</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, 2020, <https://www.undocs.org/A/HRC/43/43>, Para. 52.

<sup>31</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 198.

<sup>32</sup> For more on SRI and SRI partners’ conception of the right to bodily autonomy, see for instance the Highlights from the panel on Bodily Autonomy and Sexual Rights held on 20 September 2016 during the 33rd session of the UN Human Rights Council: <https://sexualrightsinitiative.com/ru/node/98>

<sup>33</sup> Including but not limited to the right to health and its determinants. In that context, the Special Rapporteur on the right to health noted that “certain rights that are vital to mental health, including the right to liberty, freedom from torture and the right to housing, are too often applied in isolation. This narrow selection of human rights fails to illuminate the holistic experience of individuals and societies. [...] Too often, the rights-based framing of determinants is limited, viewed only by how equality affects an individual health outcome: access to housing promotes the health outcomes of individuals and therefore advances the right to health. More work is needed to understand how the collective dimensions of the right to health not only promote individual health outcomes, but also embed a framework of equality that is not just of individual status but also creates equal opportunities and outcomes for certain groups and society as a whole.” (<https://undocs.org/A/HRC/41/34>, paras. 14 and 39).

<sup>34</sup> See *e.g.* Report of the Special Rapporteur on the right of everyone to the highest attainable standard of health on criminalization of same-sex conduct and sexual orientation, sex-work and HIV transmission (2010), A/HRC/14/20, para. 6; Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/38/46 (2018), para. 32.

infringe on a range of human rights, and compound sex workers' social exclusion and economic marginalization,<sup>35</sup> including by impeding access to housing.<sup>36</sup>

14. The Global Network of Sex Work Projects (NSWP) notes that the criminalization of sex work impedes access to stable and affordable housing in a variety of different ways, including by reinforcing and legitimizing discrimination by landlords and mortgage lenders; by impeding access to formal rental agreements or mortgages and forcing sex workers to rely on informal arrangements and often to pay higher rates; by criminalizing the rental of space for sex work; and by contributing to exclusion from legal ownership in turn leading to evictions and seizures of sex workers' property.<sup>37</sup> All these factors contribute to a general lack of housing stability which in turn jeopardizes access to social protection and benefit programs,<sup>38</sup> for instance when they require an official address.<sup>39</sup> It also exposes sex workers to increased risks of violence and abuse<sup>40</sup> which can take several forms. For instance, landlords have been known to refuse to rent properties to sex workers,<sup>41</sup> to impose additional unofficial rules targeting them, to increase the rent arbitrarily, or to take advantage of their position of power by having sex with sex worker tenants without payment.<sup>42</sup> Local governments have also made promises of "cleaning up" neighborhoods by evicting sex workers.<sup>43</sup> In countries such as Sweden and Norway, authorities have used laws penalizing third parties<sup>44</sup> to forcibly evict sex workers by

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<sup>35</sup> NSWP Briefing Note on Social Protection (2019), available at [https://www.nswp.org/sites/nswp.org/files/briefing\\_note\\_social\\_protection\\_nswp\\_-\\_2019\\_0.pdf](https://www.nswp.org/sites/nswp.org/files/briefing_note_social_protection_nswp_-_2019_0.pdf), pages 2-3.

<sup>36</sup> Report of the Special Rapporteur on the right of everyone to the highest attainable standard of health on criminalization of same-sex conduct and sexual orientation, sex-work and HIV transmission (2010), A/HRC/14/20, para. 6.

<sup>37</sup> NSWP Briefing Note on Social Protection (2019), available at [https://www.nswp.org/sites/nswp.org/files/briefing\\_note\\_social\\_protection\\_nswp\\_-\\_2019\\_0.pdf](https://www.nswp.org/sites/nswp.org/files/briefing_note_social_protection_nswp_-_2019_0.pdf)

<sup>38</sup> In a 2016 regional report by RedTraSex on sex work and institutional violence in 14 Latin American and Caribbean countries, 91.3% of respondents reported having no access to State support programmes or social benefits linked to social security impacting issues such as health, education, housing, old age pensions, etc. See [http://redtralsex.org/IMG/pdf/sex\\_work\\_and\\_institutional\\_violence.pdf](http://redtralsex.org/IMG/pdf/sex_work_and_institutional_violence.pdf), page 17.

<sup>39</sup> NSWP Briefing Note on Social Protection (2019), available at [https://www.nswp.org/sites/nswp.org/files/briefing\\_note\\_social\\_protection\\_nswp\\_-\\_2019\\_0.pdf](https://www.nswp.org/sites/nswp.org/files/briefing_note_social_protection_nswp_-_2019_0.pdf), page 3.

<sup>40</sup> *Ibid.*, page 3.

<sup>41</sup> See *e.g.* Joint UPR submission on Rwanda by the African Sex Workers Alliance and the Sexual Rights Initiative, para. 9, [https://sexualrightsinitiative.com/sites/default/files/resources/files/2020-08/UPR37%20Rwanda%20ASWA%20and%20SRI\\_0.pdf](https://sexualrightsinitiative.com/sites/default/files/resources/files/2020-08/UPR37%20Rwanda%20ASWA%20and%20SRI_0.pdf); Joint UPR submission on Tanzania by an anonymous human rights defender from Tanzania, the Southern Africa Litigation Centre and the Sexual Rights Initiative, <https://sexualrightsinitiative.com/collections/upr-submissions>, para. 21.

<sup>42</sup> See *e.g.* Joint UPR submission on Malawi by Safari Mbewe and the Sexual Rights Initiative, available at [https://sexualrightsinitiative.com/sites/default/files/resources/files/2019-05/Joint-stakeholder-SafariMbewe-SRI-submission-for-Malawis-review-during-the-22nd-session-of-the-UPR\\_Final.pdf](https://sexualrightsinitiative.com/sites/default/files/resources/files/2019-05/Joint-stakeholder-SafariMbewe-SRI-submission-for-Malawis-review-during-the-22nd-session-of-the-UPR_Final.pdf), para. 15.

<sup>43</sup> See *e.g.* Joint UPR submission on Tanzania by an anonymous human rights defender from Tanzania, the Southern Africa Litigation Centre and the Sexual Rights Initiative, <https://sexualrightsinitiative.com/collections/upr-submissions>, para. 21.

<sup>44</sup> The Global Network of Sex Work Projects uses the term 'third party' to recognise the diversity of relationships that exist between sex workers and others in the organisation and facilitation of sex work. Third parties can include a range of individuals, including but not limited to, managers, brothel keepers, receptionists, maids, drivers, landlords,

threatening their landlords with prosecution, resulting in sex workers being pushed to homelessness and losing their rental deposits.<sup>45</sup> A notorious example of this was “Operation Homeless” run by the Oslo police between 2007 and 2011 and focused on systematically evicting many sex workers from their places of work and/or homes.<sup>46</sup> Although the operation formally ended in 2011, many of its strategies have outlived it and continue to affect sex workers, particularly migrant sex workers.<sup>47</sup>

15. During the COVID-19 pandemic, in addition to the confinement and self-isolation imposed by many governments which affected sex workers’ ability to earn a living, the criminalization of sex work in many countries has meant that sex workers are excluded from emergency social protection measures and government support, including rent or mortgage relief.<sup>48</sup> The closure of many affordable short-term housing options and of workplaces for sex workers has driven many to homelessness. For migrant sex workers, this situation is exacerbated by border closures.<sup>49</sup>

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hotels who rent rooms to sex workers, and anyone else who is seen as facilitating sex work. (NSWP Community Guide: The Decriminalisation of Third Parties (2016), page 1, available at [https://www.nswp.org/sites/nswp.org/files/decriminalisation\\_of\\_third\\_parties\\_cg\\_nswp\\_-\\_2016.pdf](https://www.nswp.org/sites/nswp.org/files/decriminalisation_of_third_parties_cg_nswp_-_2016.pdf))

<sup>45</sup> *Ibid.*, page 2.

<sup>46</sup> Amnesty International. 2016. *The human cost of 'crushing' the market: criminalization of sex work in Norway*. <https://www.amnesty.org/download/Documents/EUR3640342016ENGLISH.PDF>, page 8.

<sup>47</sup> *Ibid.*, page 31.

<sup>48</sup> NSWP submission in response to the joint questionnaire by Special Procedure mandate holders on protecting human rights during and after the COVID-19 pandemic, 2020, available at <https://ohchr.org/Documents/HRBodies/SP/COVID/NGOs/NSWP.docx>, pages 4-5. See also UNAIDS and NSWP joint press statement “Sex workers must not be left behind in the response to COVID-19” at [https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200408\\_sex-workers-covid-19](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200408_sex-workers-covid-19)

<sup>49</sup> *Ibid.*, pages 4-5.

## Housing discrimination against sex workers in Canada

16. In Canada, sex work is criminalized via a ban on purchasing sex, communicating for the purposes of selling or purchasing sex, managing and providing supports to sex workers, and advertising sexual services.<sup>50</sup>
17. Criminalization of sex work renders sex workers more vulnerable to sexual, physical and economic violence and is complicit in the denial of human, labour and social rights. Under these laws introduced in 2014, sex workers live and work in unsafe conditions; they face predatory and state violence, immigration raids, deportation, surveillance, and arrest as well as see their human rights consistently violated. Sex workers who are Black, Indigenous, Asian, racialized, trans, migrant, and/or poor, and those who work in public spaces and/or use drugs face additional and disproportionate targeting by police and experience more violence.
18. Following the publication of over 420 addresses and maps where sex workers worked by an anti-sex work organization in Montreal in 2013,<sup>51</sup> sex workers' safety was jeopardized as they risked being outed to neighbours and community members. This can then fuel complaint-driven raids by police and immigration enforcement services as well as harassment, and can put sex workers at higher risk of predatory violence.
19. Beyond such egregious cases of 'outing', housing discrimination experienced by sex workers can be more mundane but no less devastating. Because sex work is criminalized, and because of stigma, discrimination and disrespect towards sex workers, is it very difficult to know when discrimination against sex workers is – or is not – « legal ». The law usually works against sex workers and rarely protects their rights, making banishment and discrimination legal. That said, the law is just one aspect of how sex workers can experience housing discrimination. Individuals who are marginalized and stigmatized are regularly refused access to housing, and are often subject to eviction. When they are aware of someone's work in the sex industry, some landlords try to include conditions in the contract that are illegal and violate the basic rights and protections that would normally apply to all residential leases. Being identified as a sex worker can lead to illegal evictions or to refusal to rent someone an apartment. Some landlords ask sex workers to pay substantially more than other tenants. The status of criminal and of not being considered "good women" puts people in a gray zone where discrimination and exploitation are commonplace.

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<sup>50</sup> Protection of Communities and Exploited Persons Act, available at [http://laws-lois.justice.gc.ca/PDF/2014\\_25.pdf](http://laws-lois.justice.gc.ca/PDF/2014_25.pdf)

<sup>51</sup> Isabelle Hachey, 'Les lieux du Vice' La Presse (Montréal, 10 October 2013) accessed <https://www.lapresse.ca/actualites/dossiers/montreal-capitale-du-sexe/201310/02/01-4695580-les-lieux-du-vice.php>

20. The criminalization of sex work fuels the social stigma sex workers face and positions them not only as “other” but also as a “toxin” or a threat that must be removed from the community which often leads to concerted efforts of banishment. John Lowman coined the term ‘discourse of disposal’ as he linked the portrayal of street sex work in Canada as a plague to get rid of to increases in rates of fatal violence.<sup>52</sup> This is especially true for street-level/survival sex workers as well as undocumented sex workers, with many living in unsafe situations with little to no recourse or resources available to them. This approach to the regulation of street-based sex work is not unique to Canada, and intersects with the deeply gendered aspects of urban and spatial planning. Hubbard and Sanders attribute the stereotypical portrayal of street sex work as “polluting” to its challenge of male bourgeois values and of “the notion that a woman can express her sexuality only in the confines of her own home”<sup>53</sup> (if at all). Examining the interplay of sexuality and the production of urban space then highlights “heterosexuality’s constant battle to maintain its dominance through spatial processes that isolate sex work and render it invisible to the heterosexual ‘majority.’”<sup>54</sup>

### **Red zones and spatial discrimination against sex workers in Canada**

21. In Canada, this ‘discourse of disposal’ and its spatial aspect are especially relevant to the criminal justice system’s imposition of boundary restrictions as part of release conditions. The imposition of release conditions is a common feature of the Canadian Criminal Justice System. It extends the supervision of convicted individuals into the community. This layering of sanctions expands judicial control over populations that are already suffering the disastrous toll of criminalization, a concept coined in 1985 by Stanley Cohen as ‘widening the net’<sup>55</sup>. From the mid-2000s, for sex workers, these conditions often included boundary restrictions or what is referred to as ‘red zones’ or ‘no-go zones’<sup>56</sup>. While the use of red zones has changed since the introduction of new prostitution laws in 2014, they are an important tool in the police and courts’ arsenal to control and surveil sex workers. These court- or police-imposed boundary restrictions are precisely delimited areas usually defined by four streets, that individuals are not allowed to enter. In practical terms, when someone is given a ‘red zone’ either as a probation

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<sup>52</sup> John Lowman, ‘Violence and the Outlaw Status of (Street) Prostitution in Canada’, [2000], Accessed April 22nd, 2021. <https://doi.org/10.1177/10778010022182245>

<sup>53</sup> Hubbard, Phil, and Teela Sanders. 2003. "Making space for sex work: female street prostitution and the production of urban space". *International Journal of Urban and Regional Research*. 27: 75-89, pages 82 and 75. Available at [https://www.unige.ch/sciences-societe/socio/files/4214/0533/5847/hubbard\\_sanders\\_03.pdf](https://www.unige.ch/sciences-societe/socio/files/4214/0533/5847/hubbard_sanders_03.pdf)

<sup>54</sup> *Ibid.*, page 87.

<sup>55</sup> Aebi, Marcelo, Delgrande Natalia, and Marguet, Yann. 2015. “Have community sanctions widened the net of European Criminal Justice Systems”, *Punishment & Society* 2015, Vol. 17(5): 575–597.

<sup>56</sup> Sylvestre, Marie-Eve and Blomley, Nicholas and Bellot, Céline, *Red Zones: Criminal Law and the Territorial Governance of Marginalized People* (January 2020). Cambridge University Press, 2020, Available at SSRN: <https://ssrn.com/abstract=3619114>

condition imposed by the courts or a ‘promise to appear’ condition imposed by police, it means they must remain outside of that area. Failure to comply is considered a breach of a probation order for which the person can be criminally charged and immediately sent to jail<sup>57</sup>. In the case of sex work in Canada, the potential sanction for breach of probation order is greater than the penalty for communicating for the purpose of prostitution, creating a cycle of deeper and deeper control and criminalization in which people who are awaiting trial can then face a series of mounting offenses.

22. The impacts of release conditions or probation breaches are grave. In addition to creating a longer criminal record, when an individual is found to have breached their conditions, it puts people at high risk of losing their housing as payment from government income programs may be suspended. If the individual is on a housing list and gets to the top of the list while in jail but is unable to call the service back and/or take possession of the housing offered, they will likely go back to the bottom of the list which are typically years long. Some cities in Canada have very high rates of administrative offenses such as breach of condition with police forces actively seeking individuals breaching their conditions, street-based sex workers being a target among other marginalized populations<sup>58</sup>.
23. Red zones are often based on the person’s location at the time of their arrest as well as the boundaries of areas where sex work and drug using are presumed or known to take place. Like many populations, sex workers live, shop, socialize and access social and health services in the same geographic area in which they work, which means that this type of sanction can cut people off from their housing as well as from key services they rely on. In many cities, red zones are imposed in the areas where the majority of emergency services including food banks, emergency shelters, drop-ins, methadone clinics, health clinics, needle-exchange programs and many units of social housing are located. Sex workers are made to « choose » between their housing, relative safety of emergency shelters and their health needs or risking being incarcerated because of breaching their release conditions. Red zones are also effectively zones of social exclusion as they deny sex workers contact with their social network including their families, social workers, friends and larger community. It severely limits sex workers’ options of where to live, work and seek support.<sup>59</sup>

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<sup>57</sup> Bruckert, Christine, and Chabot, Frederique, “Challenges: Ottawa-area sex workers speak out”, 2010, report for POWER (Prostitutes of Ottawa: Work Educate Resist). Available at [https://lgbtqpn.ca/wp-content/uploads/woocomerce\\_uploads/2014/08/POWER\\_Report\\_Challenges.pdf](https://lgbtqpn.ca/wp-content/uploads/woocomerce_uploads/2014/08/POWER_Report_Challenges.pdf)

<sup>58</sup> Canada, Office of the Federal Ombudsman for Victims of Crimes, “Administration of Justice offences”, 2017 Available at <https://www.victimfirst.gc.ca/res/pub/GFO-ORE/AJO.html>

<sup>59</sup> Bruckert, Christine, and Chabot, Frederique, “Challenges: Ottawa-area sex workers speak out”, 2010, report for POWER (Prostitutes of Ottawa: Work Educate Resist), page 13. Available at [https://lgbtqpn.ca/wp-content/uploads/woocomerce\\_uploads/2014/08/POWER\\_Report\\_Challenges.pdf](https://lgbtqpn.ca/wp-content/uploads/woocomerce_uploads/2014/08/POWER_Report_Challenges.pdf)

24. Red zones and the fear of breaching conditions also contribute to the risk of violence faced by sex workers. The section of the criminal code of Canada that criminalizes sex work, in conjunction with enforcement strategies and the impositions of sanctions like red zones, impose dangerous conditions on sex workers by preventing people from taking steps to protect themselves from the risks they face. Trying to avoid arrest or being found to be in breach of release conditions means sex workers who must work to meet financial needs must do so alone and in isolated areas to avoid detection, may not have time to screen clients, putting them at higher risk of situational or predatory violence<sup>60</sup>.
25. The purpose of boundary restrictions for sex workers is unstated but reveals much about societal attitudes toward sex workers and the stigma they face. While equally problematic, drug courts in Canada have used red zones and framed them as a way to protect substance users from the risk posed by a toxic environment<sup>61</sup>. There is no pretense of a therapeutic intervention when it comes to sex work. It appears that it is the sex worker itself that the state seeks to remove from the community. In interviews granted to the Salvation Army Correctional and Justice Services in 2011<sup>62</sup>, the Ottawa Police Service shared that they conduct prostitution sweeps when there are a significant number of complaints from members of the geographical community where sex work is happening. They said that prostitution-charging patterns had been complaint-driven. In the five years before the release of that report, they had noted that the assignment of red zones and breaching rates had increased as many as community and neighbourhood groups had been encouraging members to make more complaints to police (Crime Prevention Ottawa, 2011a), and subsequently police are more present in these communities, assigning more conditions and breaching more individuals in an attempt to “clean up” communities. The use of this language of “cleaning up” neighborhood contributes to the understanding of such practices as the desire to rid geographical space of “undesirables”, with the control of mobility being one tactic to maintaining a certain sense of order by those who wield power. Another indication of how sex workers are effectively banned from communities was revealed in the same report when it came to light that in addition to prostitution-related criminal charges were laid, 54% of the sex workers interviewed for this report (15/28 individuals) also received a charge of mischief to property. Ordinarily, for a mischief charge to stand up in court, the individual would have to cause physical damage to property (kicking the window of a police car, for example). Members of the Ottawa Police Service explained the high frequency of mischief to property charges, by sharing that sometimes the charges were due to physical

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<sup>60</sup> Kathleen Deering, et al. “A Systematic Review of the Correlates of Violence Against Sex Workers,” *American Journal of Public Health* 104.5, (2014): 42-54.

<sup>61</sup> Moore, Dawn & Freeman, Lisa & Krawczyk, Marian. (2011). *Spatio-Therapeutics: Drug Treatment Courts and Urban Space*. *Social & Legal Studies*. 20. 157-172. <https://doi.org/10.1177/0964663910391521>.

<sup>62</sup> Hannah McGeachie for the Salvation Army Correctional and Justice services, ‘The impacts of release conditions on sex workers in Ottawa’, (2011), unpublished.

damage to property and other times they were laid because sex work was seen to be “damaging” to the neighbourhood where it was occurring.

### **Colonialism and the right to housing**

26. An analysis of housing discrimination and spatial segregation must grapple with histories and legacies of colonial dispossession as well as ongoing settler colonialism and imperialism. In that sense, the right to housing must be examined through the lens of the self-determination that has been and continues to be denied to people subjected to colonial invasion, domination and dispossession.
  
27. As Harsha Walia stresses in *Border and Rule*, “[g]overnance through exclusion works to fortify territorial control, solidify a racialized nationalist identity, and criminalize migrants and refugees as “undesirables” and “trespassers.””<sup>63</sup> The violence and racism of border enforcement by former and current colonial powers extends not only to external national borders but also to spatial governance, segregation and housing discrimination within borders. This takes place both in countries that were colonized and in the present-day urban planning of countries within “Fortress Europe” such as France,<sup>64</sup> Belgium,<sup>65</sup> Denmark,<sup>66</sup> the United Kingdom<sup>67</sup> or Italy,<sup>68</sup> as well as in settler colonies such as the

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<sup>63</sup> Walia, Harsha, 2021. *Border & rule: global migration, capitalism, and the rise of racist nationalism*, Chapter 4: “Bordering Regimes.” Chicago, Illinois: Haymarket Books.

<http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2451040>

<sup>64</sup> Angélil, M., & Siress, C. (2012). The Paris “Banlieue”: Peripheries of Inequity. *Journal of International Affairs*, 65(2), page 59. Retrieved April 27, 2021, from <http://www.jstor.org/stable/24388218>

<sup>65</sup> Costa, Rafael, and Helga A G de Valk. “Ethnic and Socioeconomic Segregation in Belgium: A Multiscalar Approach Using Individualised Neighbourhoods.” *European journal of population* vol. 34,2 225-250. 6 Apr. 2018, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6241109/>

<sup>66</sup> “UN human rights experts urge Denmark to halt contentious sale of “ghetto” buildings” (23 October 2020): <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26414&LangID=E>

<sup>67</sup> See e.g. Visit to the United Kingdom of Great Britain and Northern Ireland - Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, A/HRC/41/54/Add.2, 2019, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/54/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/54/Add.2), para. 22; Eric Kaufmann and Ted Cattle: “Is segregation on the increase in the UK?” *Open Democracy*, 2016, available at <https://www.opendemocracy.net/en/is-segregation-on-increase-in-uk/>

<sup>68</sup> See e.g. Chapter 7: “Temporary Labor Migration and the New Braceros” in Walia, Harsha, 2021. *Border & rule: global migration, capitalism, and the rise of racist nationalism*. Chicago, Illinois: Haymarket Books.

United States,<sup>69</sup> Canada,<sup>70</sup> Australia,<sup>71</sup> New Zealand,<sup>72</sup> and in the ongoing violence and forced evictions by Israel of Palestinians from their homes.<sup>73</sup>

28. The colonial enforcement of social and spatial hierarchy, and its legacy, are visible across the African continent. Maputo is an example of a city in which the racial segregation imposed by Portuguese colonial settlers has left a legacy of socio-economic segregation between the city and its periphery.<sup>74</sup> And as Morton highlights, “[i]n many respects, Portuguese colonial urbanism mirrored cities elsewhere on the continent. Whether ruled by France, Britain, Belgium, fascist Italy, or Portugal, cities in colonial Africa were usually organized on the basis of racial classification... The logic of colonialism, like its apartheid variant, demanded separation of the races, at least where whites were present in any numbers. Cities maintained this social hierarchy through spatial hierarchy. [...] Indigenous populations were to be kept close enough to be of use, while at the same time kept in their place – whether in backyards or the city’s margins – and only for as long as their labor was needed.”<sup>75</sup> Therefore, colonial spatial construction projects dispossessed indigenous populations of arable land, moved populations into rural settlements, peri-urban areas and food deserts, while transferring arable land to the colonial settlers.
29. In Europe, through its “war on ‘illegal’ migration,” the EU promotes what Van Houtum describes as “a ‘gated community’ via a profoundly hierarchical and dehumanizing border machinery that scans and codes bodies for entry or rejection on the basis of where they were born. The renewed focus on territorial identity and the production of colonial like frontiers in Europe have led to the diffusion of border anxiety and practices in everyday life, the making of separate spheres of activity and meaning between us and them, here and there, physically identifiable permanent non-members and unmarked members.”<sup>76</sup> This manifests among others in the replication of racist segregation and spatial hierarchies enforced during colonization. Urban development in Paris, for

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<sup>69</sup> See *e.g.* the Report of the Working Group of Experts on People of African Descent on its mission to the United States of America, A/HRC/33/61/Add.2, 2016, <https://undocs.org/en/A/HRC/33/61/Add.2>, para. 11.

<sup>70</sup> See *e.g.* the Report of the Working Group of Experts on People of African Descent on its mission to Canada, A/HRC/36/60/Add.1, 2017, <https://undocs.org/en/A/HRC/36/60/Add.1>, paras. 7, 33.

<sup>71</sup> See *e.g.* Committee on the Elimination of Racial Discrimination, Concluding observations on the eighteenth to twentieth periodic reports of Australia, CERD/C/AUS/CO/18-20, 2017, <https://undocs.org/CERD/C/AUS/CO/18-20>, para. 23.

<sup>72</sup> See *e.g.* End of Mission Statement: Visit of the Special Rapporteur on the right to adequate housing to New Zealand (February 2020):

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25574&LangID=E>

<sup>73</sup> “East Jerusalem: UN experts deplore brutal police response to protests, urge eviction threats to be lifted” (11 May 2021) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27083&LangID=E>

<sup>74</sup> Morton, David: “From Racial Discrimination to Class Segregation in Postcolonial Urban Mozambique.” in Twine, France Winddance, and Bradley Gardener. 2013. *Geographies of privilege*. New York, NY: Routledge.

<sup>75</sup> *Ibid.*

<sup>76</sup> Twine, France Winddance, and Bradley Gardener. 2013. *Geographies of privilege*. New York, NY: Routledge. Foreword.

instance, saw “some territories develop spectacularly at the expense of others [...] Within this organized spatial hierarchy, territory becomes a symbol of power; the city core, with its displays of grandeur, is reserved for elites, while the outlying belt [the *banlieue*] is for the lower classes”<sup>77</sup> and the replication of “a former colonial refrain, only this time within its own national borders.”<sup>78</sup> The treatment of Roma communities and their segregation in camps in several European countries is another form of reliance on housing policies as social control, particularly to enforce and reinforce the marginalization of groups and populations seen as “other.”<sup>79</sup> This speaks to the use of housing law and policy as “a tool of social segregation, and as a means of denying social citizenship.”<sup>80</sup>

### **Austerity, structural adjustments and the right to housing**

30. As highlighted by the Independent Expert on Foreign Debt, “the current economic system is, for the most part, sustained by gender inequality and discrimination against women.”<sup>81</sup> Macroeconomic policies and mainstream economics are often male-biased and androcentric, leading to the imposition of structural adjustment and fiscal consolidation policies without due regard for their negative human rights or gendered impacts – or for the expertise and recommendations of feminist economists and women’s rights advocates.<sup>82</sup>
31. Women’s right to housing is affected by austerity measures in a number of ways including evictions, increases in rental prices, reductions in social housing, the growth of informal settlements and subletting, and budget cuts impacting housing options available to women such as social housing and domestic violence shelters.<sup>83</sup> Economic crises and the ensuing moves to further housing privatization and deregulation have also

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<sup>77</sup> Angélic, M., & Siress, C. (2012). The Paris “Banlieue”: Peripheries of Inequity. *Journal of International Affairs*, 65(2), page 59. Retrieved April 27, 2021, from <http://www.jstor.org/stable/24388218>

<sup>78</sup> *Ibid.*, page 60. On this topic, see also Karima Laachir, “France’s ethnic minorities and the question of exclusion” in *Mediterranean Politics* 12, no. 1 (2007): 99, 101.

<sup>79</sup> Hohmann, Jessie. 2013. *The right to housing: law, concepts, possibilities*, page 191. For more information on housing discrimination against Roma, see the resources on this topic of the European Roma Rights Centre at [http://www.errc.org/search?country=&theme=10&area=&keyword=&search\\_submit=](http://www.errc.org/search?country=&theme=10&area=&keyword=&search_submit=)

<sup>80</sup> *Ibid.*, page 200.

<sup>81</sup> Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Impact of economic reforms and austerity measures on women’s human rights, A/73/179, 2018, <http://www.undocs.org/A/73/179>, para. 78.

<sup>82</sup> *Ibid.*, paras. 7, 10, 89.

<sup>83</sup> *Ibid.*, para. 42.

exacerbated women's exclusion from access to adequate housing, reinforced and aggravated women's poverty and gender inequality.<sup>84</sup>

32. The impact and legacy of colonial dispossession throughout the Global South endures and is compounded by neo-liberal priorities and policies pushed by international financial institutions such as the World Bank and the International Monetary Fund (IMF). The negative human rights impacts of these policies, the prevalence of market forces over human rights and the lack of accountability in that context have been criticized by several Special Procedures mandates and treaty bodies.<sup>85</sup>
33. In the context of housing specifically, “[r]ather than being held accountable to residents and their need for housing, States’ housing policies have often become accountable to financial institutions and seem to pander to the confidence of global credit markets and the preferences of wealthy private investors. [...] Accountability to global finance rather than to human rights has been rigorously imposed by the International Monetary Fund and other creditors when Governments have faced foreign debt crises.”<sup>86</sup>
34. Examples of the negative housing rights impacts of aid and loan conditionalities and structural adjustment programs include Ghana, where IMF- and World Bank-led structural adjustments contributed to making real estate and housing unaffordable for an important portion of the population, and to the growth of slums in many Global South countries during the 1980s.<sup>87</sup>
35. More recently, the World Bank’s approach to housing has focused on support for mortgage market expansion, which excludes lower-income groups across the Global

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<sup>84</sup> See *e.g.* *Ibid.*, para. 42; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/19/53, 2011, <https://www.undocs.org/A/HRC/19/53>, para. 17.

<sup>85</sup> See *e.g.* the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on financialization of housing and the right to adequate housing, A/HRC/34/51, 2017, <https://undocs.org/A/HRC/34/51>; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/10/7, 2009, <https://undocs.org/A/HRC/10/7>; Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Responsibility for complicity of international financial institutions in human rights violations in the context of retrogressive economic reforms, A/74/178, 2019, <http://www.undocs.org/A/74/178>, para. 36; Statement by the Committee on Economic, Social and Cultural Rights: Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, E/C.12/2016/1, 2016, <https://undocs.org/en/E/C.12/2016/1>

<sup>86</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on financialization of housing and the right to adequate housing, A/HRC/34/51, 2017, <https://undocs.org/A/HRC/34/51>, para. 39.

<sup>87</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/10/7, 2009, <https://undocs.org/A/HRC/10/7>, paras. 31-32.

South who rarely have access to the formal financial system.<sup>88</sup> And despite the damage caused by IMF-imposed austerity and structural adjustment over the past four decades, including following the 2008 financial crisis, the same policies are being “normalized” across the world.<sup>89</sup> This, at the height of a COVID-19 crisis whose effects were aggravated by decades of cuts in public spending, and which has led to many Global South states taking out emergency loans to respond to the crisis. Oxfam research has found that austerity was encouraged or required in 84% of 91 IMF COVID-19 loans approved to 81 countries by September 2020.<sup>90</sup>

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<sup>88</sup> Liam Clegg: “The World Bank and the globalisation of housing finance.” Bretton Woods Project (2018), available at <https://www.brettonwoodsproject.org/2018/07/world-bank-globalisation-housing-finance-mortgaging-development/>

<sup>89</sup> International Trade Union Confederation: “The IMF’s Renewed Supply-Side Push: Four decades of structural adjustment and austerity conditionality” (2020), page 38. Available at <https://www.ituc-csi.org/imf-renewed-supply-side-push>

<sup>90</sup> Nadia Daar and Nona Tamale: “A Virus of Austerity? The COVID-19 spending, accountability, and recovery measures agreed between the IMF and your government.” Oxfam (October 2020), available at <https://www.oxfam.org/en/blogs/virus-austerity-covid-19-spending-accountability-and-recovery-measures-agreed-between-imf-and>

## Recommendations

- Challenge the pervasive status of the institutions of marriage and the family and their reinforcement of patriarchal norms in the context of housing laws, policies and practices. This includes the removal of formal and informal requirements of marital or relationship status for accessing housing. It also requires States to combat stigma, stereotypes and conceptions of “morality,” “respectability” and sexual and gender conformity that are rooted in racist, xenophobic, patriarchal, ableist, ageist and gender norms.
- Recognize the right to live free from domestic and intimate partner violence as part of the right to adequate housing. This includes recognizing that escaping domestic or intimate partner violence can amount to a forced eviction and a violation of the right to adequate housing, especially in the absence of access to adequate housing alternatives. It also requires States to step up the housing, social protection and gender-based violence components of their COVID-19 responses, including banning evictions and ensuring access to emergency shelters, alternative housing, crisis services and social protection measures for all, regardless of migration or employment status.
- Recognize the full decriminalization of sex work as a key requirement for the realization of sex workers’ rights to adequate housing and to equality. This includes repealing all regulations that penalize sex work and/or activities related to sex work in law or in practice, including provisions penalizing landlords and hotels for renting spaces or rooms to sex workers, combating the stigmatization and marginalization of sex workers, and ensuring access to justice and redress for housing discrimination against sex workers. This would echo the many international human rights bodies including Special Procedures, treaty bodies, and regional human rights bodies, as well as UN agencies such as WHO and UNAIDS, that have called for the decriminalization of sex work and found violations of sex workers’ rights over the years, especially in the areas of violence, violations of the right to health, and the negative impacts of “anti-trafficking” efforts such as “raid and rescue” operations.<sup>91</sup> While human rights bodies have also commented on violations of other economic, social and cultural rights of sex workers beyond the right to health, they have done so to a lesser extent.<sup>92</sup> It would therefore be crucial to address the rights violations and discrimination faced by sex workers in the context of housing in the upcoming reports.
- Ensure that sex workers have access to emergency social protection measures and government support during the COVID-19 pandemic, including rent or mortgage relief and adequate housing options, without fear of being criminalized or deported.

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<sup>91</sup> Chi Adanna Mgbako, *The Mainstreaming of Sex Workers' Rights as Human Rights*, 43 *Harv. J. L. & Gender* 92 (2020), pages 110-111.

<sup>92</sup> *Ibid.*, page 117. See for instance the Human Rights Committee’s concerns about discrimination against sex workers in the areas of education, health, housing and employment in El Salvador (Human Rights Committee, Concluding Observations on El Salvador, CCPR/C/SLV/CO/7, 2018, para. 9) and in Paraguay (Human Rights Committee, Concluding observations on the fourth periodic report of Paraguay, CCPR/C/PRY/CO/4, 2019, para. 14).

- End the imposition of boundary restrictions and red zones as release conditions, and the discriminatory targeting, policing and criminalization of sex workers, persons who use drugs, migrants and racialized groups.
- Address the right to housing and its constitutive elements from an intersectional perspective that tackles systems of oppression such as patriarchy, racism, ableism and classism. This requires addressing globalized historical, macroeconomic and political factors, including colonialism, neoliberal capitalist economic regimes, the privatization of public goods and services, the shrinking of the welfare state and austerity measures imposed as part of structural adjustment policies and aid conditionality.
- Cancel debt and suspend aid conditionalities that require or encourage austerity, reduce public spending on social services, including housing, and further housing privatization and deregulation. Accountability for human rights obligations must prevail and form the basis for macroeconomic policies and international financial institutions, including for emergency COVID-19 loans.
- Engage in structural reforms for redistributive justice, including progressive taxation reforms.<sup>93</sup>

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<sup>93</sup> See *e.g.* the statement by the Independent Expert on Foreign Debt: “Responses to COVID-19 crisis: UN expert urges more government spending targeting inequality, not big business” (15 April 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25793&LangID=E>