

**Mandates of the Special Rapporteur on the human rights of migrants; 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 and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

Ref.: AL ZAF 6/2023  
(Please use this reference in your reply)

4 January 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human rights of migrants; 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 and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 52/20, 52/10 and 52/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **at least 76 deaths, dozens injured, and hundreds displaced as a result of the 31 August 2023 fire of a five-story neglected building in Johannesburg's central business district**. There are concerns that the situation of the building itself, which rendered it unsafe and at risk of fire or other life-threatening situation is not an isolated incident and is amongst one of many potential cases of "hijacked buildings" (hereinafter informally occupied abandoned buildings) across the country.

According to the information received:

On 31 August 2023, at least 76 people were killed, dozens injured, and hundreds displaced, including women, children and persons with disabilities, as a result of a fire that tore through a five-story neglected building at 80 Albert Street in Johannesburg's central business district. The fire broke out between the late night of Wednesday 30 August 2023 and the early hours of Thursday 31 August 2023. The cause of the fire is still under investigation. However, there are several concerning reports that have been noted, wherein anti-migrant organisations and a recently registered political party, Operation Dudula, have allegedly threatened residents of the building.

The abandoned building was occupied informally by at least 400 people, mainly South Africans and migrants from lower socio-economic backgrounds, who lived in poor overcrowded conditions. It has been reported that informally occupied abandoned buildings, such as 80 Albert Street, are often controlled by criminal groups who act as landlords, forcing the occupants to pay rent despite little to no access to electricity, water, adequate sanitation and numerous hazards. Such is allegedly the case for the 80 Albert Street building, which is owned by the City of Johannesburg. This building was originally rented out by the City of Johannesburg to operators of the Usindiso shelter for women and children – often the survivors of abusive situations – which rented the building until at least 2014. Many families lived in partitions with very little space that

could only fit their sleeping bags and mattresses. These partitions were also often sub-divided to rent to other occupants.

The maze-like and crammed informal structures as well as lack of proper fire escape routes in the building, contributed to the large number of deaths and individuals sustaining physical injuries including broken bones, scars and burn marks. The fire made it difficult for occupants to safely escape, and for help to enter. It has been reported that many were not able to exit through the stairs as they were locked with metal gates. Many of the occupants resorted to jumping or throwing children from second, third and fourth floor windows in an attempt to escape the blaze. Given the conditions faced, many victims and survivors were and are in need of medical and psychosocial care.

### *Aftermath of the fire*

While the City of Johannesburg has offered and provided victims and survivors of the fire with temporary accommodation, many migrant victims and survivors have reportedly felt unsafe and avoided going to designated shelters, community halls and accessing public services for fear of being stopped by the authorities and potentially being deported.

Concerns are raised with regard to individuals being accused of being in the country irregularly, despite their identification and passports being destroyed as a result of the fire. Some migrants were reportedly turned away from hospitals and denied medical care post-fire due to a lack of documentation, while others were barred from accessing and seeing their deceased family members to bid them farewell. This is despite primary public health care being free and accessible to everyone as provided by South Africa's Constitution.

Those who have opted to reside in temporary accommodations have reportedly encountered poor, overcrowded, cold and unsafe conditions, including sharing inadequate washing facilities and ill-equipped kitchen areas. Access to food, water, medical care, sanitary and hygiene essentials, documentation as well as other basic necessities were reportedly limited following the fire. There have also been reports of violence against victims and survivors at the temporary accommodations.

Individuals who preferred not to reside in the temporary accommodations, are reported to have stayed nearby the affected building in order to gain access and retrieve their belongings in parts of the building that had not been impacted by the fire. But also, because donors were reportedly in the area providing items and donations. Conditions reportedly remain inadequate in the surrounding area and buildings.

It has been further alleged that some Government officials criticized and accused civil society and non-governmental organizations working on human rights issues of having enabled an environment of irregular occupation of neglected buildings. This is because they were active to prevent forced evictions and assisted occupants living in abandoned buildings with advocating for their human rights due to the lack of alternative housing options. Consequently, civil

society and non-governmental organizations have reportedly received anonymous threats and death threats via multiple channels for their advocacy and support of migrants' human rights.

On 1 October 2023, the provincial Government established a Commission of Inquiry to investigate the fire and prevalence of informally occupied abandoned buildings in Johannesburg. Civil society and victims of the fire have requested the recusal of one of the presiding commissioners appointed to the Commission of Inquiry, as they believe the commissioner will not be able to adjudicate the work of the commission fairly and impartially as he has openly disseminated anti-migrant and anti-foreign bias.

#### *Increased raids, evictions without court orders and relocation*

On 15 November 2023, displaced victims and survivors of the fire were evicted from Hofland Park Recreational Centre, where many had been given shelter by the City of Johannesburg. Reportedly, authorities, including the police and Operation Dudula, locked the gates of the shelter and proceeded to gather victims and survivors' and their belongings to be transferred to a detention centre. Journalists were not allowed access during this relocation. Each time a migrant is being moved they are losing their belongings en route.

Many of the migrants evicted from the Hofland Park Recreational Centre were detained and sent to the Lindela Repatriation Centre, with authorities claiming that they were undocumented migrants. Individuals were forced to undergo biometric verification to determine their migration status, as many had lost their identification papers, passports and documents during the fire. Those without passports and documentation remain detained. It has been reported that authorities moved those who qualify for temporary emergency accommodation to the Denver Temporary Relocation Area, without their prior consent or practical considerations of the suitability of this relocation.

Furthermore, police searches and raids have reportedly increased following the fire, because of the media attention – despite these actions may be leading to further human rights concerns and violations. Local authorities have reportedly recently raided six other buildings in the city and, in one case, evicted occupants without a court order and shut the entrance to one of the buildings.

South Africa recognizes the right to housing in its constitution. The primary right to housing applies to everyone<sup>1</sup> and “no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.”<sup>2</sup> In addition, before an order of eviction, South Africa's Constitutional Court ruled there is a duty of meaningful engagement or, at least, that the municipality has made reasonable efforts towards meaningful engagement in order to comply with South Africa's Constitution of

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<sup>1</sup>. South Africa's Constitution, Section 26 (1) and (2).

<sup>2</sup> Ibid, Section 26 (3).

section 26 (3).<sup>3</sup> Furthermore, South Africa has also recognized the rights of children in its constitution, according to which every child has the right to shelter and to be protected from degradation.<sup>4</sup> Therefore, the aforementioned actions appear in violation with South Africa's national and international obligations. This eviction and relocation also risk interfering with the investigative inquiry into the fire as it will make it harder for the Commission to locate victims and survivors to testify and provide crucial information.

### *Underlying issues*

Despite the building at 80 Albert Street being known and categorized as unsafe and non-compliant, there has been little explanation from Government officials about why no safe and alternative measures were offered or provided to occupants over the years. The building itself is owned by the City of Johannesburg, which is ultimately responsible for its upkeep.

There are at least 700 government-owned and private-owned buildings that are in a state of dilapidation, disrepair and neglect. In some cases, criminals have taken control of such buildings and exploit the need for shelter by charging rent and providing little or no services, as noted in the Johannesburg Inner City Housing Strategy & Implementation Plan 2014-2021.<sup>5</sup> This has allegedly been with the involvement of local officials and police officers in some instances.

Instead, some city officials and politicians have placed blame on migrants and argued that these abandoned buildings should be expropriated and redeveloped by the private sector and called for the mass deportations of migrants in irregular situations. This rhetoric leads to further suffering and distracts from the actual problem which is longstanding poor living environments and the risk of fires, as these disasters are not limited to informally occupied abandoned buildings but also to legally occupied buildings that have failed to comply with fire regulations.

This tragedy also highlights the acute levels of poverty, unemployment and inequality, shocks of natural disasters, discrimination against migrants, lack of affordable social housing and access to social services, shortage of basic utility services, as well as shortcomings of relevant policies or measures taken by authorities to tackle the root problem and ensure special care to those in vulnerable situations.

Just two streets away another building caught fire, leaving occupants, including mothers and children, stranded on the sidewalk. These issues have been ongoing for years and there does not seem to be a clear long-term, sustainable plan or policy in respect of services and housing support for migrants. Thousands of migrants are exploited in these buildings and their human rights are not protected, with no reasonable alternative option to housing. It is also unclear

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<sup>3</sup> Occupiers of 51 Olivia Road, Berea Township and 197 Main Street Johannesburg v City of Johannesburg and Others (24/07) [2008] ZACC 1; 2008 (3) SA 208 (CC) ; 2008 (5) BCLR 475 (CC) (19 February 2008).<sup>4</sup>

South Africa's Constitution, Section 28 (1) (c) and (d).

<sup>4</sup> South Africa's Constitution, Section 28 (1) (c) and (d).

<sup>5</sup> See <https://www.wits.ac.za/media/wits-university/faculties-and-schools/-engineering-and-the-built-environment/architecture-and-planning/documents/jhb-innercity-housing-strategy2014-2021.pdf>.

how your Excellency's Government intends to address the phenomenon of informally occupied abandoned buildings in urban and central areas and the root problem of poor living conditions.

Finally, it has been reported that there is an increased number of bodies in mortuaries, including migrants, which require DNA analysis to confirm identities. However, little is being done to identify victims, inform their family members and repatriate their bodies.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern over the deaths of at least 76 individuals, dozens injured, and hundreds displaced as a result of the neglected building fire on 31 August 2023. Access to adequate standard of housing, food, water and health are fundamental human rights and necessary preconditions for maintaining human dignity, irrespective of the migration status of concerned individuals, they are essential to sustain human life. We are extremely concerned about the severe negative impact of this situation on the right to life, privacy and health of nationals, migrants and other displaced populations. We urge your Excellency's Government to adequately gather information on the root cause of the fire and the widespread prevalence of informally occupied abandoned buildings in South Africa.

Furthermore, we are deeply concerned that migrants are finding themselves in further heightened risk and vulnerability due to their migration status. We wish to stress that migrants should have access to enjoy all relevant safeguards with regard to the protection of their human rights. We wish to remind your Excellency's Government that the inability of migrants to access social welfare and housing is directly connected with ineffective integration, and this should be addressed in conjunction with these concerns. National housing and social welfare law, strategies and action plans should take into account the situation of migrants, regardless of their migration status. We urge your Excellency's Government to provide social welfare, housing, medical and psychological care necessary to all victims and survivors for their prompt and full recovery, rehabilitation and reintegration.

We are also concerned about the over 700 buildings in a state of neglect that are being rented and used as housing, as their state poses a risk to the wellbeing of those living in them. We are concerned that many of the survivors of the fire have not yet been given adequate shelter and housing, and that those that were given shelter at the Hofland Park Recreational Centre were forcefully evicted. We recall that forced evictions are *prima facie* incompatible with international standards. Furthermore, we are deeply concerned about the impact that the fire, the dangerous living conditions and the forced evictions have on affected children's enjoyment of their rights.

There is also a strong concern about what may happen to the individuals if they are forcibly returned to their countries of origin, where they would face irreparable harm. We stress that individualised assessment of protection needs, as well as due process guarantees, must apply to all individuals, regardless of their status, to ensure safeguards against irreparable harm, including refoulement, in line with international human rights law. We urge the Government of South Africa to halt any plans of evictions and deportations of migrants, which have not conducted an individual and objective risk assessment of their exposure to human rights violations. States must take

measures to develop and enhance human rights-based measures and eradicate migration policies that put the lives of migrants at risk and lead to tragedies such as this one. In this regard, we highly recommend to your Excellency's Government consultation of [the Global Compact for Safe, Orderly and Regular Migration](#) and [OHCHR's Principles and Practical Guidance on the Protection of the Human Rights of Migrants in Vulnerable Situations](#).

While this communication has been triggered by a specific incident, the questions and concerns posed relate to the broader situation. Thus, while respecting that there is an ongoing legal process in the form of a Commission of Inquiry, transparent and open dialogue on the root issues would be needed. We place ourselves at the disposal of the Government of South Africa to assist with the implementation of these recommendations, in line with international human rights law and standards.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all allegations brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on how your Excellency's Government is taking steps to ensure the right of everyone, including migrants regardless of their status, to an adequate standard of living, including right to housing, food, water, health care and social welfare. Please also provide information on efforts made by your Excellency's Government in establishing "firewalls" between public services and immigration authorities to ensure that all migrants are not discouraged from having access to the core minimum standards of housing, food, water and sanitation, health care and social protection services, without discrimination and fear of detection, detention and deportation.
3. Please provide information on how your Excellency's Government intends to address the situation of informally occupied abandoned buildings across the country. Please provide details, and where available the results, of any previous or ongoing investigation(s) carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information on the measures taken to identify and provide long-term, sustainable, human rights-based, victim centred, trauma informed and gender-sensitive assistance and protection to citizens and migrants that are impacted by informally occupied abandoned buildings and disasters, regardless of their status or background.

5. Please also indicate whether your Excellency's Government has engaged with relevant embassies or consulates of individuals' countries of origin to ensure consular protection, with their free and informed consent. Please also provide information on whether the bodies of the victims have been identified, and where relevant repatriated and their families duly informed; as well as the number that remain to be identified and/or repatriated.
6. Please explain what measures are being put in place to guarantee access to legal protection and effective remedies, including the right to challenge the lawfulness of evictions, detentions and return orders.
7. Please provide information on the availability of high-quality, timely and reliable data disaggregated by gender, age, race, ethnicity, migration status, disability, geographic location and other characteristics, of those impacted by disasters and informally occupied abandoned buildings.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the human rights of migrants

Balakrishnan Rajagopal  
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

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## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to remind to your Excellency's Government of its obligations under the Universal Declaration of Human Rights (UDHR), in which article 1 affirms equality in dignity and rights for all human beings. These principles of equality and non-discrimination<sup>6</sup> are among the core elements of international law and international human rights law, as reaffirmed in article 2 (1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by South Africa on 10 December 1998; in article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified on 12 January 2015; in article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified on 10 December 1998. We remind your Excellency's Government that adherence to and full implementation of the ICERD are of paramount importance for promoting equality and non-discrimination and fulfilling South Africa's obligations under the Convention.

We would like to bring to your attention article 25.1 of the UDHR providing that "[E]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

We wish to remind your Excellency's Government of the obligations it assumed upon ratification of the ICESCR, in particular concerning right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing (article 11), as well as the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12). In its general comment No. 4 interpreting obligations under the ICESCR, the Committee on Economic, Social and Cultural Rights emphasized that "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. The right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. Indeed, housing is not adequate if it does not respect and take into account the expression of cultural identity." It also affirmed that "forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law".

In both general comment No. 4 and general comment No. 7, the Committee on Economic, Social and Cultural Rights affirmed that forced evictions are prima facie incompatible with the requirements of the Covenant, are a gross violation of the right

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<sup>6</sup> For a definition of non-discrimination, see article 1(1) of the ICERD.

to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons. In addition, legal remedies must be provided and the right to adequate compensation for any affected property exercised. Paragraph 15 of the same general comment provides that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves. We wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

We wish to refer to the Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195), in particular to objective 7, according to which States commit to respond to the needs of migrants who face situations of vulnerability, which may arise from the circumstances in which they travel or the conditions they face in countries of origin, transit and destination, by assisting them and protecting their human rights, in accordance with obligations under international law.

In particular, we wish to bring to your attention OHCHR's Principles and Guidelines on the human rights protection of migrants in vulnerable situations, in particular principle 13 on safeguarding the right of migrants to an adequate standard of living. As per principle 13.2, States must guarantee migrants' access to shelter. Shelter facilities should be adequate to meet migrants' needs, including the right to privacy, and should protect them from threats to their safety. Migrants should be entitled to carry out necessary improvements, including to temporary shelters and informal camps. National housing action plans should take migrants into account, regardless of their status.

Furthermore, principle 13.4 calls upon States to establish effective and binding firewalls between public and private service providers and public or private housing providers on one hand, and immigration enforcement authorities on the other. Ensure that irregular migrants are never criminalized for exercising their right to an adequate standard of living, and that private actors such as landlords or civil society organizations are also not criminalized when they assist migrants to exercise this right. Ensure that migrants, regardless of their status, can access shelters for the homeless. According to principle 13.5, migrants should not be obliged to stay in closed shelter facilities, jails or immigration detention centres, whether these are operated by government or private actors. Residential facilities for migrants should not restrict migrants' day-to-day movements unnecessarily.

The Special Rapporteur on the human rights of migrants has stressed that undocumented migrant workers are often homeless or living in crowded, unsafe and unsanitary conditions (A/HRC/14/30). As a matter of fundamental principle, "States

should fulfil the “minimum core obligation” to ensure the satisfaction of minimum essential levels of primary health care as well as basic shelter and housing for all individuals within their jurisdiction, regardless of their citizenship, nationality or immigration status, including migrants, migrants in irregular situations, migrant children and women. In times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes.” He also noted that “States should, at a minimum, provide migrants in irregular situations at risk of homelessness with a level of housing which ensures their dignity and allocate resources to shelters which provide assistance to migrants in irregular situations. In this regard, cooperation and partnerships with non-governmental organizations, welfare organizations and community-based organizations at the grass-roots level are strongly encouraged. In the long term, regularization of migrants in irregular situations should be considered, so as to better protect their right to adequate housing.”

In 2020, the Special Rapporteur on adequate housing developed Guidelines for the Implementation of the Right to Adequate Housing (A/HRC/43/43), including guideline No. 10 on ensuring the right to adequate housing for migrants and internally displaced persons. The Special Rapporteur notes that “once settled, migrants often live in grossly inadequate housing conditions in geographically segregated areas with poor access to services and facilities, with no security of tenure, facing discrimination, poverty and economic marginalization ... Such conditions are made worse by anti-migrant rhetoric that is increasingly translated into laws and policies. Access to homeless shelters is sometimes restricted to nationals or to documented migrants; in some jurisdictions, it is a criminal offence to rent accommodation to undocumented migrants.”

Subsequently, the Special Rapporteur called on States to “ensure the equal enjoyment of the right to housing without discrimination for all internally displaced persons and all migrants, regardless of documentation, in conformity with international human rights and humanitarian law. States must ensure coordination between migration, internal displacement and housing programmes to ensure the right to adequate housing in all contexts. Reception and other centres for migrants must meet standards of dignity, adequacy and protection of the family and other requirements of international human rights law and international humanitarian law. Migrant children should never be separated from their parents or guardians, and families that have been separated by displacement should be reunited as quickly as possible; (b) Any differential treatment in qualifying for different types of housing based on immigration status must be reasonable and proportional, and not compromise the protection of the right to housing for all people within the State’s territory or jurisdiction. There should be no discrimination on the basis of immigration status in access to emergency shelters and States should ensure that housing providers are neither permitted nor required to convey information to authorities that would discourage undocumented migrants from seeking shelter for themselves and their families. Housing providers, civil society organizations and individuals should not be penalized for assisting migrants to secure shelter or housing. Access to longer-term housing must be provided, where needed, as soon as possible; (c) Effective protective mechanisms must be in place for migrants to secure effective remedies for violations of the right to housing and non-discrimination. Specific protective measures and remedies are required for migrant workers living in housing provided by employers suffering grossly inadequate conditions or abuse,

allowing them to be relocated to adequate accommodation and to re-employment without prejudice”.

In the report of the former Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/65/261), the Special Rapporteur noted that “[I]n many countries, access to housing for migrants is strictly dependent on residence permits. Migrants under temporary or irregular migration status are often excluded from the main housing distribution mechanisms ... States should elaborate and adopt a national housing strategy that establishes the objectives and available resources, time frame and responsibilities for the development of appropriate housing conditions that include the needs of migrants. In addition, States should ensure that laws, strategies and plans of action are implemented in such a way as to address discrimination by public and private actors, in particular with regard to the right to adequate housing and take account of the situation of documented and undocumented migrants. State policies should include special measures and incentives to change the attitudes of public and private actors towards migrants. States should frequently review the regulations governing housing allocation in the public and private spheres and adopt effective inspection and enforcement mechanisms.” She also noted that the “provision of housing should not be denied to undocumented migrants; even they must be afforded a minimum level of housing assistance that ensures conditions consistent with human dignity.”

Furthermore, we would like to draw the attention of your Excellency’s Government to general recommendation No. 30 of the Committee on the Elimination of Racial Discrimination on “Discrimination Against Non-Citizens”. The Committee urges States to address xenophobic attitudes and behavior towards non-citizens, ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status and guarantee that non-citizens enjoy equal protection of the law. The general comment also includes important guidance on protecting the security of non-citizens. The Committee also recommended that States “remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health” (para. 29). In its general recommendation No. 35 on combatting racist hate speech, the Committee on the Elimination of Racial Discrimination states that the “identification and combating of hate speech practices is integral to the achievement of the objectives of [ICERD] — which is dedicated to the elimination of racial discrimination in all its forms” (para. 8). Aware of the special importance of freedom of speech in political matters and that its exercise carries with it special duties and responsibilities, the Committee has drawn attention to the role of politicians and other public leaders, who can contribute to the creation of a negative climate concerning racially marginalized groups. The Committee has encouraged public bodies and politicians to adopt positive approaches directed to promoting intercultural understanding and harmony.

Additionally, resolution 53/24 of the Human Rights Council, which addresses the issue of the human rights of migrants, reaffirms “the duty of all States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, without discrimination of any kind, in conformity with the Universal Declaration of Human Rights and their obligations under international law, including international human rights law and international refugee law.” The resolution also “ calls upon States to ensure that their migration legislation, policies and practices are

consistent with international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination of any kind, including by reviewing migration legislation, policies and practices with a view to preventing their possible negative consequences, inter alia the creation and exacerbation of vulnerabilities."

The guiding principles on Extreme Poverty and Human Rights, which were adopted by consensus by the Human Rights Council on 27 September 2012, in resolution 21/11, recommend, in particular, that States "adopt laws that protect all individuals, groups and communities, including those living in poverty, against forced evictions by State and non-State actors. This should include preventive measures to avoid and/or eliminate the underlying causes of forced evictions, such as land and property speculation" (para. 80 (b)). The guiding principles on Extreme Poverty and Human Rights also recommend that States "ensure that persons living in poverty are equal before and under the law and are entitled, without discrimination, to the equal protection and benefit of the law. States must repeal or modify laws and regulations that are biased against the rights, interests and livelihoods of persons living in poverty. All forms of legislative or administrative discrimination, direct or indirect, on grounds of economic situation or other grounds associated with poverty must be identified and eliminated".

Finally, we recall the African Charter on Human and Peoples' Rights, also known as the Banjul Charter, which South Africa ratified on 9 July 1996. Article 2 of the Banjul Charter states that "[e]very individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status." In this regard, article 4 emphasizes that: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."