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THE SHIFT DIRECTIVES

FROM FINANCIALIZED TO HUMAN RIGHTS-BASED HOUSING

THE SHIFT

#RIGHT2HOUSING

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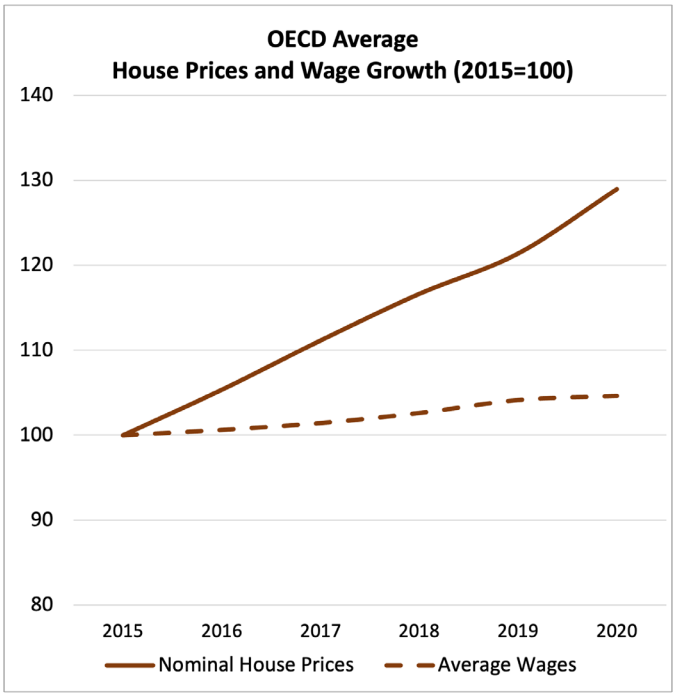
HOUSING IN CRISIS

THE RISE OF FINANCIALIZED HOUSING & THE NEED FOR A NEW DIRECTION

The global housing crisis is intensifying. The unaffordability of housing is an increasingly acute problem in cities around the world, where the cost of housing is rising at many times the rate of income.[1] Worse yet, approximately 1.8 billion people are homeless or live in grossly inadequate housing, often without access to basic services like water, sanitation, and electricity.[2] Meanwhile, by the end of 2020, the value of residential real estate had surged to an estimated US$258.5 trillion[3]—up $90 trillion from 2016.[4] Housing has become by far the most valuable asset on Earth, worth three times more than global GDP and more than 20 times all the gold ever mined.[5]

Soaring property prices have triggered a cascade of negative social effects, including rising inequality in cities, with far-reaching consequences. Some investors purchase properties to leverage record profits while tenant households increasingly struggle to keep up with the escalating costs of their housing. The dominant impact of wealth and private investment has also created and perpetuated spatial segregation in many cities.[6]

This pattern, playing out in cities around the world, defines the global housing crisis.[7] Housing, or residential real estate, has become the investment of choice for many, including institutional investors[8] (see Defining the Terms), who most often acquire housing for the profits or income that can be generated from it and convert homes into financial instruments that are traded on global markets.[9] Residential real estate is attractive for its potential to offer secure income-yielding investments, a hedge against inflation, portfolio diversification, and low volatility compared to other asset classes.[10] Simply put, the housing sector has been taken over by finance.[11] It has become a place to park, grow, leverage, and/or hide unprecedented amounts of capital. Housing has become financialized.[12]



The ground was laid for the financialization of housing[13] in the late 1970s with the introduction of neoliberal economics and the deregulation of many sectors, including housing. Its current form was born in the wake of the 2008 global financial crisis, when institutional investors—particularly, though not exclusively, private equity investment funds—used the opportunity presented by predatory lending and the mortgage foreclosure crisis to use and create financial instruments to purchase thousands of distressed homes at deep discounts.[14]

In financialized housing markets, those who make decisions about housing, such as about its use, cost, location, or likelihood of being demolished, often do so from boardrooms and have little engagement with, or accountability to, the communities in which their "assets" are located. Many residential rental properties are now owned indirectly by investors who have no connection to those properties.

In the last decade, the reach of investors in housing has grown, including during crises. For instance, natural

disasters have resulted in more housing on the market at a reduced cost, and monetary policy during the Covid-19 pandemic meant investors had access to loans at exceptionally low interest rates. These conditions make housing vulnerable to exploitation as a profitable investment for those who already have wealth and strong credit profiles.

Affordable housing—which is often lived in by marginalized people—is becoming a target of financialization.[15] Some large investors are increasingly purchasing housing intended for those most in need, such as social housing and mobile homes, as well as "undervalued" apartment buildings, which are often bought and repositioned at the high end of market value. In some instances, investors buy units only to leave them standing empty. Investors have also capitalized on the increasing "touristification" of cities by converting long-term residences into short-term holiday units using vacation rental platforms. At the same time, new asset classes, such as long-term residential care homes and student accommodation, are being created.

In most countries, government-enacted laws and policies support and even drive the financialization of housing. These incentives include low-interest rates, quantitative easing policies,[16] easy access to credit (particularly for those who already have wealth), preferential tax treatment (particularly for real estate investment trusts), neighbourhood development schemes, and weak tenant protections. In some jurisdictions, the financialization of housing is encouraged through "golden visa" schemes that entice individual investors to purchase housing in exchange for citizenship or residency.

Financialization has resulted in governments abandoning the original idea that housing is a necessary foundation for well-being and that it can be used to stimulate economic growth for the benefit of society at large. Housing has lost its currency as "home"[17] and is increasingly disconnected from its social function and status as a fundamental human right.

Tenants living in housing owned by corporate landlords and institutional investors often complain of sharp rent increases that can lead to displacement; evictions to facilitate profitable (yet sometimes substandard) renovations; costly fees for services and/or penalties for minor infractions; inadequate maintenance; and not knowing who their landlord is or how to hold them to account.[18]

Those who search for housing in cities, including essential workers, often find overvalued rental and ownership markets that they cannot afford even with full-time employment. Social housing is scant and associated with long waitlists. It is now quite common for households to spend 50 per cent or more of household income on rent. To find more affordable accommodation, many are compelled to live at great distances from employment, community services, transportation, family, and other social supports. Evictions of tenants and homeowners by financialized landlords in some jurisdictions have become commonplace,[19] regardless of the huge toll it takes on individuals and families, who often have nowhere to go once evicted. These and other realities of the financialization of housing are disproportionately experienced by marginalized groups who already suffer socioeconomic disadvantage, including women, Indigenous people, migrants, refugees, and those who are racialized, disabled, or living with low incomes.[20]

In these ways, financialization undermines housing affordability, habitability, security of tenure, and the meaningful participation of residents in decisions that affect their lives, all of which are requirements of, and critical to, the enjoyment of the right to housing under international human rights law.[21] It also contributes to social instability and inequality, which are systemic risks to the economy and, counter-intuitively, systematic risks to diversified investors and their portfolios.

The financialization of housing is now embedded in the structures that inform the functioning of states: fiscal and monetary policies and taxation law. By prioritizing the interests of investors, states (many of which have stepped away from their role as housing providers) promote the questionable idea[22] that under current conditions, corporate landlords are offering solutions to the housing crisis. The resulting dependency on and close relationship of states with those engaged in the financialization of housing has meant that investment in residential real estate has grown without adequate oversight, transparency, and accountability; few states have made any meaningful attempts to ensure compliance with human rights standards and obligations. Left largely unregulated and unchecked, private interests have failed to address the housing needs of low-income and marginalized groups. As a result, the human rights violations of homelessness and grossly inadequate and unaffordable housing have

become increasingly common.

Under international human rights law, states are obliged to regulate the real estate market and the financial actors that operate in it to ensure access to affordable and adequate housing for all.[23] Institutional investors in housing also have responsibilities under international human rights law and other accountability frameworks to do no harm. However, too few have embraced these responsibilities.[24]

If the financialization of housing is left unchallenged, cities could become predominantly the domain of the affluent at the expense of lower-income households, which will suffer further socioeconomic deprivations and inequalities. The financialization of housing may also lead to the destabilization of the economy and markets, with negative impacts for investors (including those invested in housing) and the broader population.

It is time to reorient housing systems across the world away from financialization and toward housing as a social good and fundamental human right. Capital investment in housing may be necessary for states to meet their obligations under the Sustainable Development Goals—particularly Target 11.1, which requires access to adequate, secure, affordable housing for all by 2030. Many countries face a chronic undersupply of truly affordable housing and will require tens of billions of dollars for new developments. At the same time, there is a rapidly rising tide of interest in environmental, social, and governance (ESG) criteria in the investment community. Some institutional investors are also showing interest in social impact investment, including in affordable housing. This suggests an opportunity and an imperative for states and institutional investors to work together to ensure that any engagement in housing is in keeping with international human rights law and furthers the implementation of the right to adequate, affordable, secure housing for all.

For these reasons, we have developed The Shift Directives: From Financialized to Human Rights–Based Housing.

The Shift Directives are intended to assist states and investors. If these parties embrace the Directives, they will be equipped to take the necessary steps to address the housing crisis while ensuring housing systems are based on principles of equality, security, and dignity: the foundation of human rights.

DEFINING THE TERMS

The Shift Directives are principally concerned with the role of "institutional investors" contributing to the "financialization of housing".

Institutional investors who are active in residential real estate may refer to any or all of the following:

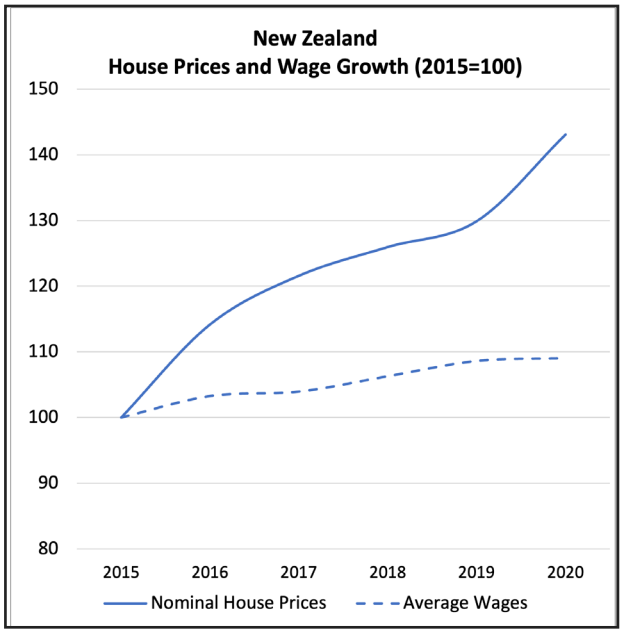
Private Equity Firms
Private and Public Pension Funds
Asset Management Companies
Real Estate Investment Trusts
Hedge Funds
Insurance Firms
Sovereign Wealth Funds
Commercial Banks
Publicly Traded Companies
Endowments and Foundations

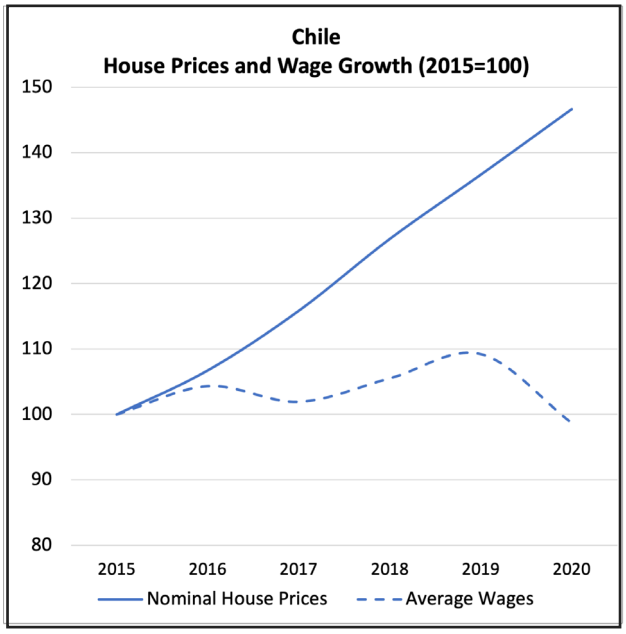
Financialization

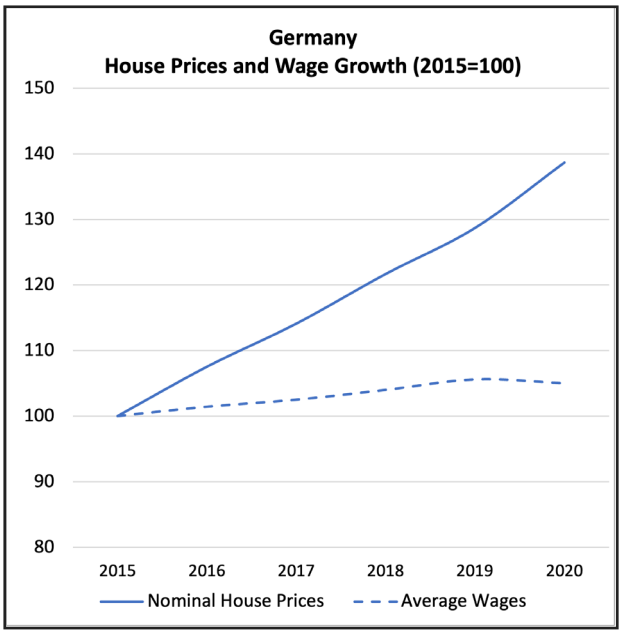
In The Shift Directives, the "financialization of housing" refers to structural changes in housing and financial markets and global investment whereby housing is treated as a commodity or asset, a means of accumulating wealth, and often as security for financial instruments that are traded and sold on global markets. It refers to those institutional investors in housing who cater predominantly to their shareholder or investor clients and in

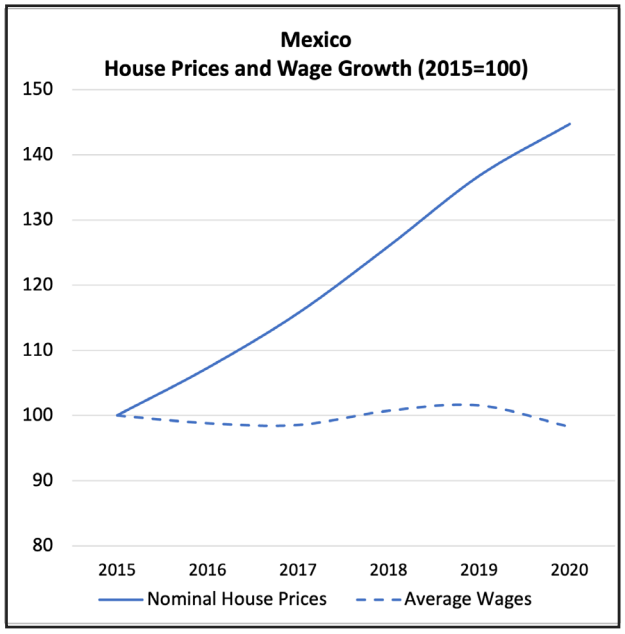
the process (inadvertently or not) cause harm to tenants. It refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live in security and dignity and hence undermines the realization of housing as a human right. It does not refer to individuals who own a second home that they use seasonally.[25] Nor does it refer to all capital investment in residential real estate, particularly where that investment is part of a business model that promotes the human right to adequate housing and its fundamental principles, as defined in international human rights law and consistent with Target 11.1 of the Sustainable Development Goals.

It would be erroneous to consider the financialization of housing as solely a northern/western phenomenon. In many developing economies, international and regional financial institutions, as well as development finance institutions, continue to actively promote policies that push financialization as the dominant strategy for addressing the critical need for housing, despite evidence that such strategies lead to greater socioeconomic inequality. Evidence shows that housing markets in developing economies have been targeted, structured, and primed by international financial institutions and investors to facilitate the flow of foreign capital into these markets, ostensibly to promote economic growth.









HUMAN RIGHTS LAW

AND ENVIRONMENTAL, SOCIAL, AND GOVERNANCE STANDARDS

In practice, governments and residential real estate investors rarely recognize or implement housing as a fundamental human right found in international and domestic law.

Housing is considered a fundamental human right because of the role it plays in human well-being and the foundation it provides for all other rights. The right to housing is found in the Universal Declaration of Human Rights, in Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, and in many other international human rights treaties that have been ratified by most governments around the world.

According to the UN, the right to housing should not be interpreted in a narrow or restrictive sense, such as four walls and a roof, or exclusively as a commodity.[26] In its broadest sense, the right to housing is understood as the right to live in peace, security, and dignity. It extends to all persons irrespective of income or access to economic resources and is interdependent with several other human rights, such as the rights to life, non-discrimination and equality, health, and water and sanitation. Certain conditions or practices are violations of the right to housing and are strictly prohibited, such as forced evictions, evictions into homelessness, and homelessness.[27]

Deprivations of the right to housing are most commonly experienced by marginalized and disadvantaged groups, including Indigenous Peoples, persons with disabilities, people from racialized, ethnic, and religious minority communities, migrants and refugees, women, single mothers, and LGBTQ+ persons.

The responsibility for implementing the right to housing rests with 'states,' which means all orders and levels of government: national, regional, and subnational, including municipalities and local governments.[28]

States must take deliberate, concrete, targeted steps toward the fulfilment of the right to housing within a reasonable time frame and must use "maximum available resources" to these ends. This requires harnessing existing and available resources, but also identifying and taking steps to secure potential resources—for instance, by introducing more progressive taxes or recouping revenues lost to tax avoidance and corruption. States are also obliged to regulate the real estate market and the financial actors operating in it.[29]

International and regional frameworks have also been developed to apply human rights law to business enterprises. Most are voluntary and do not have enforceable provisions or formal accountability mechanisms.

The Guiding Principles on Business and Human Rights (UNGPs), which the UN Human Rights Council endorsed unanimously in 2011, serve as the leading framework at the international level. This is a voluntary framework that governments around the world have endorsed. In 2015, a voluntary reporting framework was established for companies to report on human rights issues in line with their responsibility to respect human rights.[30] As of 2020, no real estate-related businesses had participated. The UNGPs recommend that states formulate national action plans. As of 2022, only 29 states had done so, with scant references to the right to housing.[31]

At the regional level, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises[32] are considered the leading instrument on responsible business conduct worldwide[33] and comprise the only comprehensive and multilaterally agreed-upon code that governments have committed to promoting. The Guidelines formally integrate the UNGPs framework, requiring business enterprises to, inter alia, respect human rights, avoid causing or contributing to adverse human rights impacts, address such impacts when they occur, and seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products, or services.[34] Governments that adhere to the Guidelines are legally obliged to promote them and to establish a non-judicial national complaints mechanism (national contact points) with the authority to hear complaints regarding compliance with the Guidelines.[35]

Since 2000, fewer than a handful of cases have been heard regarding residential real estate, and none have raised issues related to human rights and the financialization of housing.[36]

In recent years, corporations and institutional investors have started to embrace ESG criteria, in part due to regulatory requirements.[37] While many who operate or invest in residential real estate have integrated ESG factors into their investment decision-making processes—including some of the biggest actors—in most cases, these commitments have focused on environmental issues and have yet to have a real impact on business practices in residential real estate and their social implications in the area of housing and human rights. The voluntary nature of these initiatives, the lack of independent monitoring, traditional interpretations of financial materiality, and the absence of specific targets and alignment with human rights standards have rendered ESG initiatives of limited value to date.

Increasingly, ESG investors are recognizing that systemic and systematic risks, including climate change, biodiversity loss, and inequality, can pose threats to diversified portfolios. Given the role of affordable housing as a cornerstone in addressing inequality, there may be potential to harness evolving ESG frameworks to address human rights risks in the financialization of housing, such as through the emerging Task Force on Inequality-related Financial Disclosures. In this regard, ESG criteria must be more clearly articulated in line with all human rights standards, including the constituent elements of adequate housing under international human rights law.

In recent years, there has also been a rise in impact investments in affordable housing by some institutional investors. These are investments that are made with the intention to generate positive, measurable social and environmental impact along with financial returns. Social impact investing is intended to contribute to achieving the SDGs. Over the last 10 years, the impact investing community has developed international principles, impact management practices, and reporting frameworks that aim to hold financial capital to account for delivering positive outcomes for all stakeholders, not just shareholders.[38]

Most social impact investors have not explicitly and proactively embraced human rights—for example, by engaging in human rights due diligence or assessing investments based on human rights indicators. As such, it is difficult to determine whether social impact investments in the area of affordable housing are human rights–compliant or contributing to human rights harms.[39]

THE RIGHT TO ADEQUATE HOUSING: LEGAL STANDARDS

The United Nations has determined that the right to housing is the right to live in peace, security, and dignity, that adequate housing requires more than four walls and a roof, and that housing can only be enjoyed if it is "adequate." Adequacy is regarded as having the seven key characteristics listed below.

Affordability. Housing is affordable if it is commensurate with household income and not measured against what the market can command.

Security of tenure. For tenure to be secure, states must adopt legal protections against, for example, forced eviction, harassment, and other threats; increases in rent causing unaffordability; construction or renovations causing displacement; or a change of ownership resulting in eviction or displacement.

Habitability. Housing must be kept in good repair, provide inhabitants with adequate space, and protect them from the elements, structural hazards, and health threats.

Availability of services, materials, facilities, and infrastructure. Housing must contain the facilities that are needed to ensure comfort and well-being. This includes access to safe water, sanitation, heating, cooking space, and washing capacity.

Accessibility. Adequate housing must be sustainable and fully accessible for those who need it, particularly people who are vulnerable and marginalized.

Location. Housing must be located within reach of vital amenities and sources of livelihoods, including employment opportunities, health care facilities, and educational establishments. Housing should also be built only in areas that are safe and away from sources of pollution.

Cultural adequacy. Housing, through its construction methods and materials, should enable residents to express their cultural identity.

All of these characteristics are equally important. The most relevant in the financialized housing context are typically affordability, security of tenure, habitability, and the availability of services, materials, facilities, and infrastructure.

States must respect, protect, and promote the right to housing. This means they must refrain from causing harm, prevent third-party actors from causing harm, and take positive steps. Implementing the right to housing requires states to use the maximum available resources and to take immediate, concrete steps toward the progressive realization of the right. Where an individual believes their right to housing has been violated, they must be able to seek remedies.

Key Resources: UN General Comments No. 4 and 7; UN Guidelines on the Implementation of the Right to Housing; UN Development-Based Displacement Guidelines

THE SHIFT DIRECTIVES

DIRECTIVE 1: SHIFT TO A HUMAN RIGHTS-BASED HOUSING FRAMEWORK

Most governments understand that housing is a fundamental human right, yet support its treatment by investors as a financial instrument (an asset that generates individual and institutional wealth) regardless of the consequences.

The global housing crisis is a strong indication that current housing systems and their frameworks are not working, especially for members of marginalized groups, including those who are living with low-income. But the housing crisis is not the result of a temporary departure from an otherwise functional housing system. Rather, it is the result of "the system working as it is intended."[40] When housing is understood as an instrument of finance, governments adopt a framework of laws, policies, and resource expenditure that is based in and supports that understanding. When governments take legislative or policy measures to remedy inadequate housing conditions, they rarely intend for those measures to undo the framework that has caused the deleterious conditions; instead, usually the purpose of those measures is simply to ameliorate the effects of the framework.

Therefore, a fundamental shift in the framework is required—one that embraces equality and non-discrimination, focuses on the well-being of those most likely to suffer socioeconomic disadvantage, offers a universal set of standards, is legally binding, can provide clarity and guidance on best practices, and can hold actors in the housing sector accountable. There is already a global consensus that an effective framework with these characteristics is one informed by human rights.[41]

DIRECTIVE 1: RECOMMENDATIONS

1. States must enact legislation recognizing and giving effect to the human right to adequate housing as established under international human rights law.[42] This legislation should include provisions requiring states to hold private actors and investors accountable to the right to housing and that stipulate that the obligation to realize the right to housing transcends the fiduciary duties owed to investor or shareholder clients.[43]

2. States must develop and implement human rights-based housing strategies—as outlined by the UN Special Rapporteur on the right to housing—in consultation with and with the participation of all those affected, including people who are homeless and inadequately housed and their representatives.[44] These strategies should be developed in consultation with all relevant stakeholders and include the following key principles: the prioritization of those most in need based on, inter alia, income level, housing status, and housing conditions; a guarantee of rights-based participation; measurable goals and timelines for the establishment of appropriate policies, programmes, and outcomes; access to justice mechanisms to secure remedies for violations; a whole-of-government approach; a clarification of the obligations of private actors; and relevant measures articulated in The Shift Directives to reorient housing systems.

3. Rights-based housing strategies must ensure that any investment in housing contributes to affordable, secure housing—as defined in international human rights law—and is meeting the actual housing needs of rights-protected groups in each community. States must ensure that social and non-market housing is available for those in need, including through international cooperation where required. States must also make available and possible a variety of tenure forms, including cooperative housing and community land trusts. They must also provide support to non-profit and community-based housing providers.

4. States should hold public participatory discussions or hearings[45] to explore the financialization of housing and its impact on the various elements of the right to housing under international human rights law, such as affordability, security of tenure, habitability, and tenant participation in decision-making. These discussions

and/or hearings should be used to inform domestic legislation, policies, and human rights-based housing strategies to ensure the financialization of housing does not contribute to limitations on the enjoyment of the right to housing.

5. Elected officials at all levels of government must be required to publicly disclose any investment properties they may hold as well as the details of any role that institutional investors may play in the implementation of their housing strategy.

6. National human rights institutions should play an active role in educating decision makers, housing providers, financial actors, tenant associations, and the public about their rights and responsibilities with respect to housing under international human rights law and the corporate responsibility to respect human rights in line with the UN Guiding Principles. They should also assist in developing human rights due diligence and assessment tools and mechanisms for states and investors. National human rights institutions must also monitor existing and emerging forms of financialization, report on potential and foreseeable violations of human rights, and suggest legislative and regulatory measures to ensure compliance with the right to housing under international law.

DIRECTIVE 2: REGULATE INSTITUTIONAL INVESTMENT IN HOUSING TO COMPLY WITH HUMAN RIGHTS

Since the aftermath of the 2008 global financial crisis, there has been a significant increase in institutional investment in residential real estate. Although many actors use housing as a financial instrument, those with the most significant resources and greatest impact include private equity,[46] private real estate funds and capital, other asset management firms,[47] real estate investment trusts,[48] large, publicly listed real estate corporate entities,[49] and public and private pension funds.[50]

The disproportionate resources often held by institutional investors grant them a significant competitive advantage over individual private purchasers. For example, many institutional investors do not need to obtain financial approval from banks for their purchases—they can easily leverage resources or pay in cash, they have privileged access to data to find properties, and they can complete transactions very quickly, making their offers more attractive.[51]

Institutional investors are also often the beneficiaries of tax policies that include exemptions from or favourable rates for municipal property taxes, capital gains, and corporate income tax.[52] Broadly, these benefits have not yet resulted in better access to housing or lower costs of housing.

Regardless of property type, investor, or location, the financialized housing business model deployed by institutional investors focuses on raising rents and fees, rendering much of the stock unaffordable for residents, contrary to human rights law. Renovations and redevelopment are often used to these ends (see Directives 3 and 7). Institutional investors may also contravene human rights when they use their political power to expand the financialization of housing or undermine government policy that would protect the human rights of tenants.[53]

This does not mean that institutional investors have no role to play in the housing sector, especially given their access to large pools of long-term capital. However, their participation must be strictly compatible and compliant with international human rights law and subject to human rights oversight and accountability.

DIRECTIVE 2: RECOMMENDATIONS

1. States must ensure that residential real estate investors comply with human rights by:

   i. requiring institutional investors to recognize and implement their human rights responsibilities, such as by adopting a mandatory human rights due diligence regulation or creating guidance documents focusing on respect for human rights within the real estate sector.[54]
   ii. requiring that a human rights impact assessment be carried out by parties prior to the purchase or sale of property,[55] or by the owner before upgrades and renovations are undertaken. These assessments must be made available to all residents, and where negative human rights outcomes are indicated, tenants must have access to recourse mechanisms;
   iii. legislating reasonable and affordable percentage limits to rent increases and increases in property maintenance fees consistent with the right to adequate housing and tying rent increases to the unit, not the tenancy;
   iv. ensuring that a portion of rental units are allocated as affordable rental housing consistent with the definition of affordability in international human rights law pertaining to adequate housing;
   v. developing new funding models in partnership with housing agencies and institutional investors that are based in human rights principles and intended for the development of affordable rental housing consistent with international human rights law pertaining to adequate housing;[56]
   vi. invoking antitrust laws to limit the agglomeration of housing units in a single community or neighbourhood by a single institutional investor;
   vii. requiring transparent beneficial ownership of all residential real estate;

viii. collecting and putting in the public domain data on all properties for sale, the terms of all sales and purchases (particularly those that might impact tenants), and the name(s) and contact details of the owner(s) and their representatives.

2. States must review and reform tax laws and policies to ensure that institutional investors engaged in the financialization of housing are not accorded preferential tax treatment.[57] Capital gains tax should be levied against all investment properties. States should consider extending tax credits or advantages for institutional investor-owned buildings that substantially contribute to the affordable housing stock in compliance with human rights affordability standards.

3. Institutional investors must engage in responsible investment that recognizes relevant international human rights instruments and standards such as the UN Guiding Principles on Business and Human Rights. Human rights, including the right to housing, must be incorporated into investment policies, ESG criteria, social impact investing, and real estate asset allocations, and used to undertake human rights due diligence to mitigate any negative effects of investment. Institutional investors in residential real estate must establish meaningful accountability mechanisms for tenants and provide remedies for infringements of the right to housing.[58] Institutional investors must not use their political power to undermine legislation or policy that would protect the human rights of tenants.

4. Securities regulators (such as the U.S. Securities and Exchange Commission and the European Securities and Markets Authority) should establish disclosure rules requiring publicly traded companies and trusts to disclose information about their human rights impacts, including data on evictions and percentage increases in housing costs.

DIRECTIVE 3: ENSURE RENOVATIONS AND REDEVELOPMENT ARE CONSISTENT WITH HUMAN RIGHTS

Investor landlords commonly use renovation and redevelopment to achieve greater returns on their investments. To this end, investors often look for older, "undervalued" properties in jurisdictions with legislative frameworks that permit evictions and/or the raising of rents if "substantial renovations" are undertaken. They often meet this type of requirement by making unnecessary or cosmetic upgrades.[59]

Tenants report that in some instances, renovations are undertaken in a manner that is so disruptive they can barely tolerate the conditions and are driven out of their homes. Some suggest that this is, in fact, a tactic to enable the landlord to more easily renovate the unit and/or raise the rent.[60] Tenants also report that some investor landlords allow housing conditions to deteriorate significantly, sometimes to the extent that their housing becomes virtually unliveable. Their landlord then uses the fact that the condition of the housing has worsened to justify wholesale redevelopment into more expensive units to which tenants can rarely afford to return.[61]

Renovations and redevelopment, and the concomitant increases in rent, often disproportionately impact tenants who are migrants or refugees, persons with disabilities, women, single mothers, Indigenous People, and members of other marginalized groups; thus, they are often discriminatory. They may result in violations of domestic and international human rights laws (such as the right to life and the right to housing); of housing adequacy standards (such as those related to affordability and habitability); and of protections against discrimination, forced evictions, and homelessness.

DIRECTIVE 3: RECOMMENDATIONS

1. With respect to renovations of rental units, including those undertaken to mitigate climate change, states must prohibit or deter spurious upgrades and resulting tenant relocations. With respect to general renovations, legislation must set percentage limits in accordance with human rights affordability standards regarding costs that landlords can pass on to tenants through rent increases. Where climate-change mitigation is a priority and capacity permits, states should provide financial support for energy efficiency and other retrofit measures to prevent costs being passed on to tenants.

2. States must ensure that from commencement to completion, redevelopment is consistent with domestic and international human rights law. In this regard, states and all investors in housing must adhere to the UN Special Rapporteur's Basic Principles and Guidelines on Development-Based Evictions and Displacement.[62]

3. Human rights-compliant redevelopment requires that states ensure, through legislation, inter alia, that:

    i. no tenant is displaced and all tenants have the option to reacquire a similarly sized rental unit at the original site at a rent that is consistent with their original rental agreement;
    ii. the redevelopment includes at least the same proportion of affordable units as the original site;
    iii. investor landlords create binding, human rights-compliant social benefits agreements with tenants and local authorities which include an independent adjudicative mechanism for the settling of disputes.

4. Domestic courts must use non-discrimination and equality rights law to protect marginalized groups subject to housing renovations and redevelopment. Courts must have the authority to issue injunctive relief to halt or remediate renovation work that fails to comply with international human rights law standards.

DIRECTIVE 4: RESTRICT INVESTMENT IN RESIDENTIAL REAL ESTATE AND VACANT HOMES BY INDIVIDUALS

In some states, a substantial percentage of housing stock is purchased by individual investors speculating in residential real estate. These homes are offered on short-term rental platforms, rented as long-term accommodation at market or above market rates, or left empty.

The phenomenon of multi-property individual housing investment has been facilitated by several factors, in particular: the availability of loans at extremely low-interest rates, stable and attractive returns on residential real estate as an investment, the concomitant lack of other avenues for rapid wealth-building and economic security, and cultural norms that affirm the use of housing as an investment vehicle. In certain countries, it is also facilitated by government policies, such as golden visa schemes, which allow wealthy foreign nationals to obtain citizenship or residency in exchange for investment in residential real estate.[63]

Small-scale individual investment in one or two properties beyond those required for personal use may positively contribute to a functioning private rental market. However, individual investment in multiple properties can contribute to pressures on the housing market. This type of speculation can make it very difficult for first-time home buyers, the less affluent, women, and racialized groups to access home ownership and generate intergenerational wealth. It may also contribute to housing unaffordability by driving up the cost of purchasing along with rent levels.

DIRECTIVE 4: RECOMMENDATIONS

1. States should impose progressively higher tax rates on purchases of second, third, and subsequent properties, whether purchased by nationals or non-nationals.[64] States should also impose taxes on vacant homes or consider mechanisms to render these homes part of their affordable housing stock. Taxes must be set at a rate that will prohibit speculation. Revenues generated from these taxes should be used to ensure a greater supply of social, genuinely affordable, climate-resilient and efficient housing, in keeping with states' human rights obligation to use maximum available resources to progressively realize the right to housing.

2. Golden visa schemes in their current form should be revoked.[65] Where golden visa schemes remain, they must be designed to ensure they are transparent and do not contribute to the laundering of funds obtained through illicit means or to housing unaffordability and scarcity. Visa schemes could be re-oriented to promote social impact by investing in affordable housing or climate-resilient and efficient building and renovations, as long as this is done in accordance with international human rights law.

DIRECTIVE 5: REGULATE SHORT-TERM RENTALS AND ASSOCIATED PLATFORMS

Global travel and the drive for new revenue streams by local governments have resulted in the proliferation of short-term rental accommodation. What began as a means for individual households to derive a small income periodically from their own property has become an industry in its own right. As such, institutional investment in short-term rental platforms themselves has become hugely profitable in the last decade.[66]

Short-term rental platforms like Airbnb have a direct impact on the availability of affordable housing stock.[67] The substantial profitability of short-term rentals[68] has led many landlords to convert what would otherwise be long- term leased apartments for local residents into short-term lets for tourists, with tenants reporting that landlords have pressured them to leave or have used legislative loopholes to evict them in order to make these conversions.[69] It has also influenced the nature of new housing developments, with a tendency toward building units that will be attractive to investors in short-term rentals rather than of interest to long-term residents. This has a direct bearing on the cultural adequacy of the housing that is being built.

DIRECTIVE 5: RECOMMENDATIONS

1. Municipalities must be given the competence to adopt and enforce legislation pertaining to short-term rentals. States should prohibit the use of housing for short-term rentals, except with respect to principal residences and owner-occupied secondary residences (such as family vacation homes). “Short-term stays” in principal or owner-occupied secondary residences should be defined as a rental period of less than 28 consecutive days in exchange for payment (this excludes hotels). Public authorities must maintain a formal registry and/or licensing system for short-term rental companies and impose stiff fines on those who fail to register without due reason.

2. In areas deemed over-touristed by local or national governments, and where local populations are vulnerable to being displaced, states must take measures to strictly limit short-term rentals.[70]

3. Local governments must ensure that new residential real estate developments are intended to house local and long-term residents rather than to be purchased by investors and used as short-term rentals.

4. When investment properties (not principle or owner-occupied secondary residences) are used for short-term rentals and left vacant for longer than three months, states should use incentives or expropriation to convert the units into long-term rentals.[71]

DIRECTIVE 6: REGULATE EMERGING FORMS OF FINANCIALIZATION, INCLUDING STUDENT HOUSING AND LONG-TERM CARE HOMES

Investors regularly seek to diversify their holdings and increase their profits by investing in new and emerging areas of residential real estate. Two recent targets for investors are purpose-built student accommodation (PBSA) and long-term care homes, both of which are regarded as providing reasonably secure and stable income streams, often supported, at least in part, by government funding.

In countries where investment in PBSA is common,[72] private equity firms have built significant portfolios using real estate investment trusts as the financial vehicle. In the US, the number of PBSA beds nearly tripled in a decade, from one million in 2010 to an estimated 2.8 million in 2020.[73] Similarly, significant levels of investment are being made in long-term care homes. In Germany and Sweden, investment in care homes in 2020 jumped by 21 per cent and 80 per cent respectively versus 2019.[74] In Canada, financial firms own 33 per cent of all Canadian seniors' housing, including 22 per cent of long-term care homes and 42 per cent of retirement living communities.[75]

Capital invested into these new asset classes has led to a significant shift in approach,[76] sometimes causing deleterious effects for residents and undermining their human rights. Residents in these settings have expressed concerns regarding affordability, with many of these facilities charging exorbitant rents or fees, failing to provide essential services (including water),[77] cutting costs, and locking residents into long-term contracts.[78]

PBSAs not only undermine rights to affordable, adequate housing for students, but can reinforce inequality. Lower- income students (often from marginalized communities) who cannot afford PBSA often have no choice but to live off campus, which can result in longer commutes and less time to participate in university-related activities and study.[79]

The risk of death and serious illness is higher in financialized long-term care homes than in public and other private homes, typically because of staff reductions to cut costs and increase profits.[80] A number of recent studies have shown that the health outcomes for people living in financialized long-term care homes for older persons during the pandemic were far worse than for the broader population.[81] In this way, the financialization of long-term care homes can breach the right to life.

DIRECTIVE 6: RECOMMENDATIONS

1. States must recognize alternative forms of accommodation including, but not limited to, PBSA, long-term care homes, children's care homes,[82] homeless shelters, prisons, and accommodation for refugees and migrants as subject to the standards of international human rights law, specifically the adequacy standards related to affordability, habitability, and security of tenure.

2. States must regulate investment in institutional living facilities to protect the sector from financialization that prioritizes profits over residents' health, well-being, equality, and dignity. In this regard, states should channel any subsidies for long-term care homes, PBSA, or other such housing to not-for-profit, non-financialized providers and, where relevant, revoke licences if facilities fail to meet international human rights standards.

3. Tenant protection legislation and legislation that regulates financialization must extend to emerging forms of financialization and be consistent with international human rights standards.

DIRECTIVE 7: ENACT EFFECTIVE LEGISLATIVE PROTECTIONS FOR TENANTS AND ENSURE THEIR PARTICIPATION

In financialized housing systems, decisions are often made unilaterally by executives who may have little connection to the properties they own or the communities they are in. Residents are rarely afforded the opportunity to play an active and meaningful role in decision-making. They commonly report not having been properly consulted about improvements to their units (for which they must eventually pay through higher rents)[83] and receiving last-minute information about disruptive renovations[84] or rent increases.[85] Some find that their homes have been slated for demolition or sold to another investor without their input.[86] Yet the meaningful participation of tenants in decisions that affect their living conditions is a requirement under international human rights law.

Exclusion from decision-making is often compounded by weak tenant protections. This weakness plays an important role in the financialization of housing. Governments often compromise tenant protections to facilitate profit-making for owners of residential real estate, including by enacting legislation that allows rents to be raised without limits (or with tenant turnover)[87] and permitting the exploitation of legal provisions, such as no-cause or expedited eviction proceedings, as a means of increasing rents.[88]

DIRECTIVE 7: RECOMMENDATIONS

1. States must legislate strong tenant protections that comply with, and extend to all aspects of, the right to adequate housing under international human rights law, including security of tenure, availability of services, affordability, habitability, and accessibility. No-fault eviction must be strictly prohibited as inconsistent with security of tenure. Evictions that will render the tenant homeless must also be strictly prohibited. Tenant protections must extend to all tenants, regardless of who owns the unit in which they reside and the type of tenure they hold.

2. States must protect the right to meaningful and effective participation in domestic legislation, including the right of all tenants and homeowners to form unions, movements, grassroots organizations, associations, and advocacy groups without reprisal. In law and in practice, meaningful participation must ensure that tenants and their representatives can influence decisions that affect their tenancies. Governments must also ensure that the obligation to engage with interested and affected parties when making decisions extends to both public and private actors.

3. Investors in multi-family apartment buildings must be required to establish participatory processes to ensure tenants can (should they choose) meaningfully engage and influence decisions that affect their tenancies and communities, including with respect to the sale or purchase of the property and modifications to the property (including to meet climate-related targets). Where tenants have a reasonable belief that the sale of the property in which they live will negatively affect their human rights, they must have recourse to administrative or judicial mechanisms to seek relief. States must also consider extending the right of first refusal to tenants whose properties are being sold.

4. States must establish accountability mechanisms to ensure access to justice for breaches of tenant protections, the failure of government to enact or implement sufficient protections for tenants/dwellers, and for tenants to challenge the financialization of housing itself. Access to justice mechanisms may include courts, tribunals, ombuds, or any other mechanisms that can provide a remedy that can be implemented and enforced and that can address both individual and systemic violations.[89] States must ensure the provision of legal aid to facilitate access to these mechanisms.

DIRECTIVE 8: ENSURE COMPLIANCE WITH HUMAN RIGHTS BY CENTRAL AND COMMERCIAL BANKS

Central and commercial banks and state mortgage entities engaged in lending[90] contribute significantly to the financialization of housing.[91]

In the aftermath of the global financial crisis, central banks have helped ensure that interest rates remain low. Low interest rates encourage borrowing by investors in residential real estate and those who already have wealth and assets against which to leverage more capital. This can lead to "displacement financing,"[92] in which institutional investors secure loans, demonstrating that they can repay them by generating income from increased rental charges and fees and by making upgrades that can lead to higher home equity values. These practices can lead to the displacement of tenants.

Banks are often quick to foreclose on a home when mortgage payments are in arrears. This is contrary to human rights law, which requires that banks pursue all viable alternatives to eviction prior to taking action that would result in eviction.[93]

Banks also facilitate the selling off of bad debt to institutional investors. In response to the 2008 financial crisis, the Basel Committee on Banking Supervision[94] adopted an internationally agreed-upon set of measures. As a result, many banks had to increase their solvency by selling off non-performing loans, including their real estate assets. This policy opened the door to "shadow banks,"[95] such as private equity firms and opportunistic funds, that purchase foreclosed homes at discount prices. Unlike banks, shadow banks lack external or independent regulation, which enables them to remain largely unaccountable.[96]

DIRECTIVE 8: RECOMMENDATIONS

1. All monetary and fiscal measures adopted by states must contribute to the realization of human rights. Therefore, central banks must consider access to housing, including for marginalized groups, when they set monetary policies.[97]

2. States must establish processes to ensure complete transparency in all transactions related to residential real estate, including any terms related to the transaction, beneficial ownership, leveraging of debt to facilitate the transaction, and any other aspect of the proposed business plan that is likely to affect human rights.

3. States should require banks and other lenders to act in the public interest and uphold human rights, including the right to housing.[98] For example, states should:

    i. prevent banks and other lenders from making loans that can reasonably be expected to lead to displacement financing;[99]
    ii. encourage investment that will produce deeply affordable[100] housing in perpetuity;[101]
    iii. require banks to demonstrate that they have explored all options to prevent the foreclosure of a home and the eviction of the household;
    iv. ensure no eviction occurs without the availability of an adequate permanent housing alternative;
    v. impose taxes on banks when they foreclose on homes;
    vi. enable the right of first refusal for governments, public institutions, and tenants to purchase homes sold by banks.

4. Banks and other lenders should make financial products, such as interest-free or low-interest loans, available to community organizations to develop housing that is affordable for low-income communities.

DIRECTIVE 9: STRENGTHEN INTERNATIONAL, REGIONAL, AND INDUSTRY-ACCOUNTABILITY MECHANISMS

The primary responsibility for the implementation of human rights rests with states. Considering the dominance and political power of the real estate investment sector, whose activities fall squarely in an area that is a human right, states must ensure these actors do not violate the right to housing. In fact, these actors should contribute to the implementation of this right. States must be held accountable in this regard.

The voluntary nature of most international and regional business and investment oversight bodies has proven insufficient to ensure human rights outcomes. These bodies have yet to recognize violations of the right to housing as experienced by tenants as an area of concern. Self-monitoring within the real estate and housing sectors insulates the industry from independent review and prevents meaningful correction in line with human rights obligations.

DIRECTIVE 9: RECOMMENDATIONS

1. Relevant State accountability mechanisms at the international level should commit to working with other stakeholders, including those who have contributed to The Shift Directives, to develop a set of joint recommendations to address the financialization of housing. This includes: the UN Committee on Economic, Social and Cultural Rights, the UN Working Group on Business and Human Rights, and the UN Special Rapporteurs on the right to adequate housing and on extreme poverty.

2. The provisions in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises[102] must be interpreted in a manner that both prohibits institutional financial actors in the housing sector from contributing to adverse human rights impacts and requires these actors to contribute to the progressive realization of the right to housing as understood under international human rights law.[103]

3. The European Commission's proposed social taxonomy must include provisions for institutional landlords, with housing as a special industry/asset class, and apply universal human rights standards in the region to ensure greater transparency and regulation of institutional landlords.[104]

4. State, regional, and international regulations should be established that require transparency with respect to whether investments in and financial products associated with residential real estate comply with the right to housing. Bodies responsible for guiding investment practices, such as the UN Principles for Responsible Investment[105] and the European Sustainable Finance Disclosure Regulations,[106] must ensure that due consideration is accorded to the impact of investment on human rights, including the right to housing,[107] and on the world's ability to achieve the Sustainable Development Goals, particularly Target 11.1.

5. Business and finance self-governing bodies must establish independent monitoring and complaint mechanisms with expertise in the human right to housing to ensure any business conducted in the area of residential real estate, including social impact investing or ESG-related investment, complies with international and regional human rights standards and obligations.[108] The Task Force on Inequality-related Financial Disclosures[109] should consider using human rights to inform its framework and should establish a working group on housing.

DIRECTIVE 10: ENSURE INTERNATIONAL FINANCIAL INSTITUTIONS AND FRAMEWORKS ADHERE TO HUMAN RIGHTS STANDARDS

In many developing and emerging economies, international and regional financial institutions actively promote the financialization of housing as a principal strategy for addressing the critical need for housing, despite evidence that such strategies can lead to greater socioeconomic inequality and may not provide housing options to households that are most in need.[110]

For instance, to address the global financial crisis and its impact on developed countries, the International Monetary Fund and regional banks imposed austerity measures in several European countries, encouraging golden visa schemes and the liberalization of housing systems. The result was that governments relied on financialized housing assets to service their own debts.[111] The human rights impacts of these measures were never considered. In many countries, these are the conditions in which financialization took hold.

In developing countries, World Bank housing-related programmes concentrate on what they consider to be the building blocks of housing finance, such as housing title registration, foreclosure procedures, lending regulations, long-term funding instruments, and improving the liquidity of mortgage assets to reduce the costs of credit-risk underwriting for investors. Those policies have meant that development programmes frequently support the emergence of a financialized housing system that may be at odds with states' obligations to prioritize the needs of those in the most desperate housing circumstances.[112]

DIRECTIVE 10: RECOMMENDATIONS

1. International, regional, and development banks and financial institutions must adopt human rights policies[113] and undertake human rights due diligence in all activities, including in their requirements of governments. They should review all existing policies and practices to ensure these comply with the human right to housing, including with respect to their effects, and do not directly or indirectly promote or facilitate the financialization of housing. Policies or policy recommendations that require a state to violate its international human rights obligations must be rescinded immediately.

IV.

MAKING THE SHIFT

EXAMPLES

While no state has yet deployed a holistic housing strategy based on human rights to address the financialization of housing, jurisdictions around the world are beginning to enact laws and policies to this end. Leaders are realizing that trusting the markets—which are skewed to favour investor interests—to manage housing with little oversight was a miscalculation. Political pressure is growing, speculative bubbles are threatening economies, and residents who are being priced out of their communities are fighting back. At the same time, the housing crisis—which was created in part through the financialization of housing—now poses a systemic risk to economic and social stability and, by extension, to long-term investors and their returns.

Signs of progress are appearing in jurisdictions around the world. Encouraging steps are being taken to challenge the financialization of housing and affirm that housing must be protected as a human right. The examples provided below are not offered as best practices of the implementation of the right to housing. In fact, some may include elements that frustrate the enjoyment of the right. Equally, the inclusion of any particular state or region here is not to suggest they are abiding by their international human rights obligations. Indeed, it should be noted that these highlighted policies generally do not address the larger systemic issues that are causing the housing crisis. This said, the current wave of de-financialization measures could signal the beginning of a shift toward more functional and just approaches to housing.

Berlin. Foreign investors swooped into the German capital after the fall of the Berlin Wall. In 2004, Cerberus Capital Management, backed by Goldman Sachs, bought the city's public housing association and its approximately 66,700 housing units for $6,700 per home.[114] Between 2007 and 2020, more large-scale real estate investments were made in Berlin than in London and Paris combined. Rents and housing prices soared,[115] and residents were outraged. In response, the city passed a five-year rent freeze in 2020. A top court struck it down more than a year later, ruling that the city infringed on the federal government's powers. A grassroots campaign to re-socialize housing gained steam. In a 2021 referendum, Berlin voters approved a plan to expropriate (socialize) homes belonging to private real estate companies that own 3,000+ units through public purchases by the Berlin government "well below market value." This would see Berlin acquire around 11 per cent of the city's housing stock. Although not legally binding, it is a clear call for action. Activists are now preparing legislation they hope will be passed to bring the results of the referendum to life.[116]

Catalonia. This region of Spain was greatly affected by the 2008–2009 global financial crisis and became prey for many institutional investors. Between 2008 and 2020, at least 135,739 evictions were carried out in this region. In 2022, the Catalan parliament passed a new housing bill that aims to protect residents, particularly from the most aggressive investors. Under the law, large property holders must register with the government and are obliged to offer social rent proposals to individuals at risk of housing exclusion before serving eviction notices or after a contract expires. Social rent contracts, which are below market value, can last up to seven years if the property owner is an enterprise, and housing costs are to be set at 12 to 18 per cent of household income. Residents entitled to social housing are protected from evictions for up to two cycles (or rental contracts) at regulated prices, if they are at risk of losing their primary residence and the owner is a bank, large investment fund, or owner of more than 15 apartments. The new law also includes protection from evictions for vulnerable people who, in the absence of alternatives, are living without legal title in vacant homes owned by banks and investment funds. These owners are also subject to fines if they don't offer "anti-eviction social rentals." Property owners also face penalties if a house has been left vacant without justified cause for more than two years or in other scenarios of noncompliance with the social function of housing. Landlords who violate these rules will be asked to remedy the situation. If they do not, authorities can impose monthly coercive fines totalling as much as 50 per cent of the value of the property and can transfer the empty homes to the social housing fund for up to seven years. Homes that are not being used as habitual, permanent residences can also be expropriated at 50

per cent of the market value if they are located in areas experiencing severe housing stress.[117]

Chile. Private real estate builders, developers, and financial institutions have dominated Chile's housing market for decades. The push toward home ownership commodified housing and increased speculation. Despite major government investments starting in the 1990s to secure homes, by 2021, more than 81,000 families were living in informal settlements—the highest number since 1996.[118] Housing prices continue to rise, and an increasing number of low- to middle-income households are overburdened by their rent and mortgage payments.[119] After an explosion of social unrest over inequality in 2019, the government was pressured to hold a plebiscite on rewriting the Pinochet-era constitution. The referendum passed in 2020 with 78 per cent approval. The new constitution is being drafted with provisions regarding the right to housing that have been successfully proposed to be voted on. The text of the provision reads: "Every person has the right to a dignified and adequate home, which allows for the free development of a personal, family and community life."[120]

China. China is home to the world's single largest housing market, and real estate activity accounts for approximately 25 per cent of the country's GDP.[121] In Beijing, an average home costs nearly 25 times the average wage.[122] In 2020, under the motto "houses are for living in, not speculation," the government rolled out a policy to clamp down on reckless borrowing by big developers. Under the policy, developers looking to refinance are evaluated by three thresholds: that liabilities don't exceed more than 70 per cent of assets; that debt doesn't exceed equity; and that cash must be at least equal to short-term borrowings.[123] The move had a considerable effect on some of the country's largest developers, many of which were heavily indebted and reliant on refinancing. A prime example is Evergrande, a massive developer run by a CEO and founder whose wealth peaked at $36.2 billion in 2019.[124] Evergrande entered into "restricted default" in late 2021 and is set to undergo one of Asia's largest debt restructurings.[125] Credit rating agency Fitch anticipates moderate declines of three to five per cent in China's overall home prices in 2022 and 2023.[126]

Denmark. Institutional investors have been buying property in Denmark for years, with activity increasing sharply after 2009. Investors were driving up rent prices dramatically by taking advantage of a legal provision that allowed owners of older properties to increase rents after renovations.[127] In response, the government created a parliamentary committee that compiled a report on the issue. Based on the report, parliament enacted the so-called "Blackstone Law" in 2020, which prevents investors who purchase properties from increasing rents within the first five years of the purchase.[128] Tenants' rights were also strengthened by a tripling of fines for landlords' noncompliance with housing laws and by greater transparency that allows every tenant in an apartment to know what others pay in rent. Nine months after the law entered into force, Denmark's housing minister noted that it had led to a decrease in property prices of around eight to 12 per cent and caused many of the most aggressive investors to withdraw from Copenhagen.[129]

New Zealand. Facing pressure to calm the housing market as the median house price increased by 23 per cent in the year leading up to February 2021, the New Zealand government announced the largest public housing build programme since the 1970s. Heeding housing advocates' warnings that the plan would still fall short,[130] in a global first, the government announced that it would begin requiring its central bank to "take into account the Government's objective to support more sustainable house prices, including by dampening investor demand for existing housing stock to help improve affordability for first-home buyers."[131] New Zealand also recently passed a sweeping zoning reform legislation to permit medium-density housing in all of the country's major cities.[132]

Singapore. In Singapore, government institutions, including the Housing and Development Board (HBD), launched an aggressive building campaign to improve deteriorating housing stock and deal with a population explosion in the mid-twentieth century. This approach continues today and has seen relative success. More than 80 per cent of Singaporeans currently live in housing built and managed by the HBD.[133] To reduce profiteering, the sale and rental of HBD homes are highly restricted, and sellers are required to physically live in their homes for at least five years.[134] Even so, when the government noticed that housing prices were picking up in 2021, it passed measures to cool the market, such as imposing a 17 per cent tax on the purchase of second properties and a 25 per cent tax on third or subsequent properties for citizens. Foreign non-resident purchasers face 30 per cent taxes, while

institutional investors or corporate entities entities have to pay a 35 per cent tax on the purchase of any home.[135]

Taiwan. From 2005 to 2015, housing prices more than doubled in the Taiwanese capital, Taipei, while salaries remained stagnant. Two-thirds of the average household income was going toward mortgage payments.[136] In 2016, the government established capital gains taxes to curb residential real estate speculation, and in 2021, it tightened the tax laws again. Under the latest legislation, individuals and companies must pay 45 per cent capital gains taxes on properties sold less than two years after purchase. The tax rate decreases to 35 per cent for sales made two to five years after purchase and to 20 per cent for sales made more than five years after purchase. Foreign investors are subject to taxes of 35 to 45 per cent, depending on the holding period.[137]

US banks. A growing number of US banks are committing to preventing displacement financing. For instance, the Bank of California pledged to support affordable housing[138] and to look into whether its policies and practices regarding lending to landlords with poor track records align with the California Reinvestment Coalition's Anti-Displacement Code of Conduct.[139] In New York, Signature Bank and New York Community Bank also signed onto a set of best practices, with Signature saying it discourages lending that would likely lead to tenant displacement or to landlords with "inadequate building and tenant management practices."[140]

More examples of financialization and steps being taken to push back can be found on The Shift Directives' interactive map.

ENDNOTES

I. HOUSING IN CRISIS

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5 Tostevin, P. (2021, September). The total value of global real estate. Savills. https://www.savills.com/impacts/market-trends/the-total-value-of-global-real-estate.html

6 Financialized housing markets create and thrive on gentrification and appropriate public value for private wealth. Improved services, schools, or parks in an impoverished neighbourhood attract investment, which then drives residents out. See: Farha, L. (2017).Farha, L. (2017, January 18). Report of the Special Rapporteur on Adequate Housing as a Component of the Right to Adequate Standard of Living, and the Right to Non-Discrimination In this Context, page 11. United Nations General Assembly. https://digitallibrary.un.org/record/861179

7 These Directives do not seek to suggest that the financialization of housing is the only cause of the housing crisis. Other contributing factors may include, for example, population growth, wage stagnation, and lack of public investment. The Shift Directives seek to demonstrate that even though financialization is currently a central creator of housing need, distress, and crisis around the world (and is often a contributor to other factors, such as the failure of governments to properly invest in affordable and social housing), it has not been recognized as such in most policy and state practice.

8 For the purposes of The Shift Directives, institutional investors include private equity firms, private and public pension funds, asset management companies, real estate investment trusts, hedge funds, insurance firms, sovereign wealth funds, commercial banks, publicly traded companies, and endowments and foundations.

9 Saskia Sassen argues that high finance is an economy of extraction: finance creates financial instruments that allow value to be extracted from housing and other modest assets. See: Sassen, S. (2014). Expulsions: Brutality and Complexity in the Global Economy. The Belknap Press of Harvard University Press.

10 This book offers a thorough account of private capital, the actors involved, and its global impact. See: Cokelet, B. et al. (2020) Runaway Train: The Perilous and Pernicious Path of Private Capital Worldwide. Empower, LLC. https://hcommons.org/deposits/item/hc:45379

11 a) Rolnik, R. (2015). Urban Warfare: Housing Under the Empire of Finance. Verso Books.

b) Aalbers, M. (2016). The Financialization of Housing: A Political Economy Approach. Routledge.

c) Harvey, D. (2014). Seventeen Contradictions and the End of Capitalism. Oxford University Press.

12 Dezember, R. (2021, April 4). If You Sell a House These Days, the Buyer Might Be a Pension Fund. The Wall Street Journal. https://www.wsj.com/articles/if-you-sell-a-house-these-days-the-buyer-might-be-a-pension-fund-11617544801

13 In The Shift Directives, the "financialization of housing" refers to structural changes in the housing and financial markets and global investment whereby housing is treated as a commodity or asset, a means of accumulating wealth and often as security for financial instruments that are traded and sold on global markets. It refers to those institutional investors in housing who cater predominantly to their shareholder or investor clients and in the process—inadvertently or not—cause harm to tenants. It refers to the way capital investment in housing increasingly disconnects housing from its social function of providing a place to live in security and dignity and hence undermines the realization of housing as a human right. It does not refer to individuals who own a second home that they use seasonally. Nor does it refer to all capital investment in residential real estate, in particular where investment is part of a business model that promotes the human right to adequate housing and its fundamental principles as defined in international human rights law and consistent with Target 11.1 of the Sustainable Development Goals.

14 a) In 2016, Jonathan Gray, then global head of real estate at Blackstone, stated that it was the global financial crisis that enabled Blackstone to purchase distressed real estate assets en masse. In 2012, Blackstone entered the single-family home market by purchasing 50,000 distressed homes and turning them into rental accommodations. See: Miami Herbert Business School. (2016).

b) Also see: Miami Herbert Business School. (2016, February 16). 2016 Real Estate Impact Conference – Keynote Session: Jon Gray. [Video]. YouTube. https://www.youtube.com/watch?v=Aynf_wRrq-o

15 Bokhari, S. & Katz, L. (2021, July 22). Investor Home Purchases Hit Record, Surpassing Pre-Pandemic Levels. Redfin. https://www.redfin.com/news/investor-home-purchases-q2-2021/

16 As Anna Minton pointed out in a 2021 article in The Guardian, the flood of global capital into properties since the global financial crisis, including during the COVID-19 crisis, "has been driven by low or negative interest rates, the growing dominance of global private equity in real estate and quantitative easing, the policy of creating trillions of pounds of electronic money" pursued by central banks across the world. "In the UK £445bn was created between 2009 and 2016, which went disproportionately into the hands of the richest, who ploughed it disproportionately into property. Between March and Novem ber 2020, a further £450bn was funnelled into the economy, which is predicted to have a similarly distorting effect on the housing market." See: Minton, A. (2021,

July 6). Liberalise planning rules to fix a housing crisis – sounds logical, but it won't work. The Guardian. https://www.theguardian.com/commentisfree/2021/jul/06/government-reforms-planning-laws-help-housing-crisis

17 a) Sassen, S. (2014). Expulsions: Brutality and Complexity in the Global Economy. The Belknap Press of Harvard University Press.

b) OECD SMEs, Regions and Cities. (2019, May 2). Saskia Sassen – The process of "financialization" of real estate assets. [Video]. YouTube. https://www.youtube.com/watch?v=7Vz2LZYU5c8&t=230s&ab_channel=OECDSMEs%2CRegionsandCities at 3:37.

18 Some institutional investors are committed to maintaining and producing affordable housing and to bettering the private rental sector. There is also increasing interest in responsible investment including in the area of housing. See, for example: The Good Company. (n.d.). Affordable Housing. https://thegoodeconomy.co.uk/sectors/affordable-housing

19 There have been more than one million evictions in Spain since 2011. See: Casey, N. (2021, November 21). As Pandemic Evictions Rise, Spaniards Declare 'War' on Wall Street Landlords. The New York Times. https://www.nytimes.com/2021/11/21/world/europe/spain-evictions-cerberus-covid.html

20 California Reinvestment Coalition. (2015, June). REO to Rental in California: Wall Street Investments, Big Bank Financing, and Neighbourhood Displacement. California Reinvestment Coalition. https://calreinvest.org/wp-content/uploads/2018/08/REO-to-Rental-in-California-CRC-June-2015.pdf

21 Office of the United Nations High Commissioner for Human Rights. (1991, December 13). CESCR, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), para. 8. United Nations. https://www.refworld.org/pdfid/47a7079a1.pdf

22 Goodman, P.S. (2022). Davos Man: How the billionaires devoured the world. Custom House.

23 Committee on Economic, Social and Cultural Rights. (2017, August 10). General Comment No. 24 (2017) on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, para. 18. Economic and Social Council, United Nations. https://www.refworld.org/docid/5beaecba4.html

24 a) Office of the United Nations High Commissioner for Human Rights. (2011, June 16). Guiding Principles of Business and Human ights. United Nations. https://www.ohchr.org/sites/default/files/documents/publications/ guidingprinciplesbusinesshr_en.pdf

b) United Nations Global Compact. (n.d.). The Ten Principles of the UN Global Compact. United Nations Global Compact. https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-1

c) Caplan, K. & McCarthy, K. (2019, March 25). Blackstone's Response to Communication Sent by Special Rapporteur on the Right to Housing. United Nations Human Rights Office of the High Commissioner. https://www.ohchr.org/Documents/Issues/Housing/Financialization/Reply_OL_OTH_17_2019.pdf

II. THE LAW

25 It is recognized that in some states, problems are caused by individuals purchasing vacation homes in lower-income communities. This can deny locals the opportunity to live in their communities and can increase local rents and housing costs. While we recognize this as a concern, such purchases fall outside of the scope of The Shift Directives.

26 Office of the United Nations High Commissioner for Human Rights. (1991, December 13). CESCR, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), para. 7. United Nations. https://www.refworld.org/pdfid/47a7079a1.pdf

27 a) Office of the United Nations High Commissioner for Human Rights. (1991, December 13). CESCR, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), para. 1. https://www.refworld.org/pdfid/47a7079a1.pdf

b) Human Rights Council. (2019, December 26). Guidelines for the Implementation of the Right to Adequate Housing: 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, para. 30. United Nations. https://undocs.org/A/HRC/43/43

28 Human Rights Council. (2014, December 22). 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, Leilani Farha. United Nations. https://documentsddsny.un.org/doc/UNDOC/GEN/G14/248/16/PDF/G1424816.pdf?OpenElement

29 Committee on Economic, Social and Cultural Rights. (2017, August 10). General Comment No. 24 (2017) on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, para. 18. Economic and Social Council, United Nations. https://www.refworld.org/docid/5beaecba4.html

30 Shift Project Ltd. & Mazars LLP. (n.d.). UN Guiding Principles: Reporting Framework. Shift Project Ltd. & Mazars LLP. https://www.ungpreporting.org/wp-content/uploads/UNGPReportingFramework_2017.pdf

31 National Action Plans on Business and Human Rights. (n.d.). https://globalnaps.org

32 OECD. (2011). OECD Guidelines for Multinational Enterprises, 2011 Edition. OECD Publishing. https://doi.org/10.1787/9789264115415-en

33 OECD. (2018). OECD Guidelines for Multinational Enterprises: a Glass Half Full. OECD Publishing. https://www.oecd.org/investment/mne/OECD-Guidelines-for- MNEs-A-Glass-Half-Full.pdf

34 OECD. (2011). OECD Guidelines for Multinational Enterprises. OECD Publishing. http://dx.doi.org/10.1787/9789264115415-en

35 Ruggie, J. G. (2007, October). Business and Human Rights: The Evolving International Agenda. American Journal of International Law. http://dx.doi.org/10.1017/S0002930000037738

36 OECD. (n.d.). Database for specific instances misconduct. OECD Guidelines for Multinational Enterprises. https://

mneguidelines.oecd.org/database/

37 a) Task Force on Climate-related Financial Disclosures. (n.d.). https://www.fsb-tcfd.org/

b) Sustainable Finance Disclosure Regulation. (n.d.). Eurosif. https://www.eurosif.org/policies/sfdr/

38 a) Operating Principles for Impact Management. (n.d.). https://www.impactprinciples.org

b) Impact Management Platform. (n.d.). https://impactmanagementplatform.org

39 Policy Department for External Relations: Directorate General for External Policies of the Union. (2020, July). Impact investing in the framework of business and human rights. European Parliament. https://www.europarl.europa.eu/RegData/etudes/IDAN/2020/603490/EXPO_IDA(2020)603490_EN.pdf

40 Madden, D. & Marcuse, P. (2016). In Defense of Housing, page 8. Verso Books.

DIRECTIVE 1

41 171 states have ratified the International Covenant on Economic, Social and Cultural Rights, committing to the progressive realization of the right to housing. See: United Nations Human Rights Treaty Bodies. (n.d.). UN Treaty Body Database. Office of the United Nations High Commissioner for Human Rights. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CESCR&Lang=en

42 Human Rights Council. (2019, December 26). Guidelines for the Implementation of the Right to Adequate Housing: 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, Guideline 1. United Nations. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement

43 Office of the United Nations High Commissioner for Human Rights. (1993, June 25). Vienna Declaration and Programme of Action, Article 1. United Nations. https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action

44 a) Office of the United Nations High Commissioner for Human Rights. (1991, December 13). CESCR, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), para. 7. United Nations. https://www.refworld.org/pdfid/47a7079a1.pdf

b) Human Rights Council. (2018, January 15). 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. United Nations, General Assembly. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/007/65/PDF/G1800765.pdf?OpenElement

45 The Parliament of Denmark struck a committee to investigate the financialization of housing and its impact. The result of that closed-door convening was new legislation aimed at curbing it.

DIRECTIVE 2

46 Private equity applies to both “hedge funds and institutional investors that make investments on behalf of other individuals who invest with them, and to wealthy individuals who are making equity investments through their own or pooled vehicles.” Through private equity firms, investors provide capital to directly fund or buy out companies. Private equity real estate firms put most or all of their accrued investor capital into housing or commercial real estate, sometimes establishing REITs or subsidiary companies to operate these properties, generating income through rents and other fees, which are securitized. See: Ferrer, A. (2021). The Just Recovery Series: Beyond Wall Street Landlords, page 10. Strategic Actions for a Just Economy. https://www.saje.net/wp-content/uploads/2021/03/Final_A-Just-Recovery-Series_Beyond_Wall_Street.pdf

47 Asset management refers to the consolidation of wealth from institutional and individual investors used to make alternative investments, primarily through leveraged buyouts of non-publicly listed, often (though not always) distressed assets, generally over a 10-year time-horizon. See: Cokelet, B. et al. (2020). Runaway Train: The Perilous and Pernicious Path of Private Capital Worldwide, page 78. Empower, LLC. https://hcommons.org/deposits/item/hc:45379

48 a) A real estate investment trust, or REIT, is a company that pools capital from small and large investors to own, operate, or finance income-producing real estate. REITs embrace a wide range of real estate. However, at the current time, their primary focus is on residential real estate in the form of apartments (multi-family homes), single-family homes, and mobile homes. Most REITs publicly trade on stock markets. REIT shareholders earn a portion of the income produced through real estate investment. Residential REITs are most commonly found in North America and Europe, although they are beginning to emerge in peripheral economies. For example, residential REITs represent US$3.5 trillion in assets across the US and €450 billion in Europe. See: Nareit. (2022, September). REITS by the numbers. Nareit. https://www.reit.com/data-research/data/reits-numbers

b) See also: Stevenson, S. (2013). The global real estate investment trust market: Development and growth, pages 18-19. Springer.

49 These are private real estate companies that may be listed publicly but which do not use a trust or equity structure. For example, Vonovia, based in Germany, represents one of the largest real estate companies in Europe, with more than 560,000 rental apartments. It is a public company with offerings on several stock exchanges.

50 Public and private pension funds are among the biggest institutional investors in all asset classes. They hold trillions of dollars in assets and have a huge impact on global markets. Some invest directly in real estate, some create real estate subsidiaries to do so, and others use private equity and asset management firms to invest on their behalf. Some examples of pension fund investment in residential real estate include: ABP, a large Dutch pension fund whose capital amounted to more than €460 billion in 2019, allocates 10 per cent of its fund to real estate investments. CalPERS, California’s public pension fund, had a total fund market value of $354 billion in 2018. It has various funds under management that are heavily invested in REITs. Norway’s Government Pension Fund Global is one of the world’s largest investment funds and one of Europe’s most active real estate investors. The fund is also the largest shareholder in Caixabank, a Spanish bank that is known for the eviction of tenants from their homes and is the ninth-largest shareholder of Blackstone Mortgage Trust. The latter owns and operates thousands of apartments around the world,

consistently raising rents and evicting tenants. See: Shareholder Association for Research & Education (SHARE). (2021). Investors for Affordable Cities: Responsible investment and affordable rental housing in Canada, Discussion Paper. SHARE. https://share.ca/wp-content/uploads/2021/10/SHARE-InvestorsForAffordableCities-2021.pdf

51 See: https://www.wsj.com/articles/home-builders-bypassing-individual-home-buyers-for-deep-pocketed-investors-11649678401; and https://money.com/housing-investor-trend-tips-to-compete/

52 a) Gabor, D. and Kohl, S. (2022, January). The Financialization of Housing in Europe: "My Home is an Asset Class," pages 44, 52-53. The Greens/EFA, European Parliament. http://extranet.greens-efa-service.eu/public/media/file/1/7461

b) ACORN Canada. (2021). Rein in the REITS. ACORN Canada. https://acorncanada.org/wp-content/uploads/2022/04/Rein-in-the-REITs_English_0.pdf

c) PricewaterhouseCoopers (PWC). (2019, October). Worldwide Real Estate Investment Trust (REIT) Regimes. PWC. https://www.pwc.com/gx/en/ asset-management/assets/pdf/worldwide-reit-regimes-nov-2019.pdf

53 a) California Proposition 10. https://lao.ca.gov/BallotAnalysis/Proposition?number=10&year=2018

b) Goodman, P.S. (2022) Davos Man: How the Billionaires Devoured the World. (Custom House).

54 This is consistent with the UN Guiding Principles on Business and Human Rights, which state at Principle 2 that: "States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations." See: Office of the United Nations High Commissioner for Human Rights. (2011). Guiding Principles on Business and Human Rights. United Nations. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

55 This is consistent with UN Guiding Principles on Business and Human Rights, Principle 18: "In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships." It is also consistent with Principle 19: "In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action." Human rights impact assessments of the purchase and sale of properties could include an audit of tenants requiring particular human rights protections against increases in rent, eviction or displacement, for example due to low-income, race or ethnic origin, or marital/family status; and transparency regarding building upgrades, the necessity of such upgrades to comply with human rights adequacy standards, the actual cost of the upgrades, and the plan to ensure no one is displaced as a result. See: Office of the United Nations High Commissioner for Human Rights. (2011). Guiding Principles on Business and Human Rights. United Nations. https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

56 Such schemes are notoriously abused, so it is imperative that states ensure these units are allocated in a fair manner consistent with human rights principles of non-discrimination, equality, and adequate housing. Cash payments in lieu of the provision of affordable units must only be allowed in exceptional circumstances, and where cash payments are accepted, they must be used to create affordable housing.

57 a) Principles for Human Rights in Fiscal Policy (PHRFP). (2021, May). Principles for Human Rights in Fiscal Policy. PHRFP. https://derechosypoliticafiscal.org/images/ASSETS/Principles_for_Human_Rights_in_Fiscal_Policy-ENG-VF-1.pdf

b) Human Rights Council. (2019, December 26). Guidelines for the Implementation of the Right to Adequate Housing: 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, para. 69(a)(vi). United Nations. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement

58 a) For recommendations of this nature, see: Blackwell, S. et al. (2020, May). Investor Toolkit on Human Rights. Investor Alliance for Human Rights. https://investorsforhumanrights.org/sites/default/files/attachments/2020-05/Full%20Report-%20Investor%20Toolkit%20on%20Human%20Rights%20May%202020c.pdf

b) Shareholder Association for Research & Education (SHARE). (2021). Investors for Affordable Cities: Responsible investment and affordable rental housing in Canada, Discussion Paper. SHARE. https://share.ca/wp-content/uploads/2021/10/SHARE-InvestorsForAffordableCities-2021.pdf

DIRECTIVE 3

59 a) Farha, L. (2020, April 27). Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard living, and on the right to non-discrimination in this context. (n.p.) https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25199

b) August, M. (2020). The financialization of Canadian multi-family rental housing: From trailer to tower. Journal of Urban Affairs. https://doi.org/10.1080/07352166.2019.1705846

c) Moro, T. (2018, April 26). Residents of east Hamilton buildings declare rent strike. The Hamilton Spectator. https://www.thespec.com/news/hamilton-region/2018/04/26/residents-of-east-hamilton-buildings-declare-rent-strike.html

60 Farha, L. (2020, April 27). Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard living, and on the right to non-discrimination in this context. (n.p.) https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25199.

61 a) The Shift. (2021, June 25). Letter of concern from The Shift to Pemberstone Ltd. The Shift. https://make-the-shift.org/wp-content/uploads/2021/07/Letter-to- Pemberstone-from-The-Shift-250621.pdf

b) #SaveOurHomesLS26. (2021, August 12). Pemberstone revives "demolition by neglect" tactics – it's 1989 all over again. #SaveOurHomesLS26. https://saveourhomesls26.org/page/2/

62 Human Rights Council. (2007, February 5). Implementation of General Assembly Resolution 60/251 of 15 March 2006, Entitled "Human Rights Council": Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari. United Nations, General Assembly. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement

DIRECTIVE 4

63 a) A number of countries have adopted golden visa schemes to revitalize their tourism and real estate sectors, which are mutually reliant. Approximately 100,000 individuals have bought European Union residency. The greatest number of golden visas have been granted in Spain (24,755), Hungary (19,838), Portugal (17,521), Latvia (17,342), the UK (10,445), and Greece (7,565). Overall, these programmes have generated approximately €25 billion in the European Union over the last decade. See: Boffey, D. (2019, January 22). 'Golden visa' schemes pose risk to EU security, Brussels to say. The Guardian. https://www.theguardian.com/world/2019/ jan/22/golden-visa-schemes-pose-risk-to-eu-security-brussels-to-say

b) See also: Transparency International (Brillaud, L. & Martini, M.) & Global Witness. (2018). European Getaway: Inside the Murky World of Golden Visas, page 14. https://images.transparencycdn.org/images/2018_report_GoldenVisas_English.pdf

64 A number of countries impose a "foreign buyers' tax" to dissuade foreign investment in residential real estate. For example, Hong Kong (1.5 to 8.5 per cent); China; and Ontario, Canada (15 per cent), unless the buyer is a student, works in, or is a permanent resident of Ontario.

65 The UK has recently revoked its Golden Visa scheme, citing its role is assisting foreign nationals to move "dirty money" often earned through corruption off- shore. See: Allegretti, A. (2022, February 17). UK axes 'golden visa' scheme after fraud and Russia concerns. The Guardian. https://www.theguardian.com/uk-news/2022/feb/17/uk-ministers-plan-to-scrap-golden-visa-scheme-amid-russia-concerns

DIRECTIVE 5

66 For a list of Airbnb shareholders, see MarketBeat. Shadow bank Morgan Stanley owns the greatest number of shares, at 1,471,065. See: MarketBeat. (n.d.). Airbnb – ABNB Institutional Ownership. MarketBeat. https://www.marketbeat.com/stocks/NASDAQ/ABNB/institutional-ownership/

67 a) Human Rights Council. (2017, January 18). 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, para. 28. United Nations, General Assembly. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement

b) Corporate Europe Observatory (CEO). (2018, May). UnFairbnb: How Online Rental Platforms Use the EU to Defeat Cities' Affordable Housing Measures. CEO. https://corporateeurope.org/sites/default/files/unfairbnb.pdf

68 A recent study conducted in Mississauga, Ontario, a city west of Toronto, found that it takes only seven to 14 days for an Airbnb listing to generate as much rent as a traditional long-term monthly lease. See: Fairbnb.ca. (2017). Squeezed Out: Airbnb's Commercialization of Home-Sharing in Toronto, page 31. Thorben Wieditz, FAIRBNB.CA Coalition. https://fairbnb.ca/Fairbnb_Report_Feb_29.pdf

69 Hill, S. (2015, October 19). Evictions and conversions: the dark side of Airbnb. The American Prospect. https://prospect.org/economy/evictions-conversions-dark-side-airbnb/

70 a) The city of Amsterdam adopted this approach and was taken to court by local businesses. The matter remains before the courts. See: Rivera, H. (2021, April 18). Amsterdam to appeal against ruling on Airbnb listings. Short Term Rentalz. https://shorttermrentalz.com/news/amsterdam-appeal-airbnb/

b) Rental of apartments in Palma de Mallorca for holidays has been prohibited for three years unless a tourism licence is obtained. See: Lozano, P. (2021, May 26). Bookings for illegal holiday apartment rentals at 25% for the summer. Majorca Daily Bulletin. https://www.majorcadailybulletin.com/news/local/2021/05/26/84551/palma-mallorca-bookings-for-illegal-holiday-apartment-rentals.html#:~:text=Holiday%20rental%20of%20apartments%20has,for%20June%20they%20are%2040%25

71 In 2020, the mayor of Lisbon incentivized owners of short-term rentals to rent their units to the City of Lisbon, which would then rent out the units at subsidized rates. See: Kassam, A. (2020, December 1). 'Covid created an opportunity': Lisbon to turn tourist flats into homes. The Guardian. https://www.theguardian.com/ world/2020/dec/01/covid-created-an-opportunity-lisbon-turns-20000-tourist-flats-into-homes

DIRECTIVE 6

72 PBSA is common in countries such as Canada, USA, UK, Australia, Germany, France, and the Netherlands. See, Knight Frank. (2019) Global Student Property 2019: A Global Perspective on Student Property and Investment. Global Student Property 2019. https://content.knightfrank.com/research/1775/documents/en/global-student-property-report-2019-may-2019-6426.pdf

73 Knight Frank. (2019) Global Student Property 2019: A Global Perspective on Student Property and Investment, page 21. Global Student Property 2019. https://content.knightfrank.com/research/1775/documents/en/global-student-property-report-2019-may-2019-6426.pdf

74 Europe Real Estate. (2020, November 25). Germany and Sweden see significant increases in home care investment. Europe Real Estate. https://europe-re.com/germany-and-sweden-see-significant-increases-in-care-home-investment/68536

75 August, M. (2022, January 20). Financialization of Housing from Cradle to Grave: COVID-19, Seniors' Housing and Multifamily Rental Housing in Canada. Studies in Political Economy. https://doi.org/10.1080/07078552.2021.2000207

76 a) Knight Frank. (2019). Global Student Property 2019: A Global Perspective on Student Property and Investment, page 21. Global Student Property 2019. https://content.knightfrank.com/research/1775/documents/en/global-student-property-report-2019-may-2019-6426.pdf

b) Europe Real Estate. (2020, November 25). Germany and Sweden see significant increases in home care investment. Europe Real Estate. https://europe-re.com/germany-and-sweden-see-significant-increases-in-care-home-investment/68536

c) August, M. (2022, January 20). Financialization of Housing from Cradle to Grave: COVID-19, Seniors' Housing and

Multifamily Rental Housing in Canada. Studies in Political. https://doi.org/10.1080/07078552.2021.2000207

d) Revington, N. & August, M. (2019, November 20). Making a Market for Itself: The Emergent Financialization of Student Housing in Canada. Environment and Planning A: Economy and Space. http://dx.doi.org/10.1177/0308518X19884577

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b) August, M. (2020, July 26). The coronavirus exposes the perils of profit in seniors' housing. The Conversation. https://theconversation.com/the-coronavirus-exposes-the-perils-of-profit-in-seniors-housing-141915

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b) Myklebust, S. et al. (2021, March). Cashing In on Our Homes: Billionaire Landlords Profit as Millions Face Eviction, page 7-8. Bargaining for Common Good, the Institute for Policy Studies & Americans for Financial Reform Education Fund. https://ourfinancialsecurity.org/wp-content/uploads/2021/03/Cashing-in-on-Our-Homes-FINAL.pdf

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b) Powell, T. & Wessel, D. (2021, April 2). Why is the New Zealand government telling its central bank to focus on rising house prices? https://www.brookings.edu/blog/up-front/2021/04/02/why-is-the-new-zealand-government-telling-its-central-bank-to-focus-on-rising-house-prices/

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100 Deeply affordable rents are based on household income rather than on market rents, with the understanding that households should not use more than about 30 per cent of their income to pay for housing.

101 See the work of Fair Finance International, which has successfully campaigned for responsible, human rights–compliant investment policies and practices; see also the California Reinvestment Coalition, which has developed a Code of Conduct signed by 100 groups that directs bank practices toward the public interest.

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104 a) See: Gabor, D. and Kohl, S. (2022, January). The Financialization of Housing in Europe: 'My Home Is an Asset Class'. The Greens/EFA, January 2022. http://extranet.greens-efa-service.eu/public/media/file/1/7461

b) The EU taxonomy formally established in 2020 is intended as a classification system to establish a list of environmentally sustainable economic activities with a view to providing investors and policy-makers with definitions regarding which economic activities might be regarded as environmentally sustainable. See: European Commission. (n.d.). EU taxonomy for sustainable activities. European Commission. https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en#why

c) Since its advent, there have been many proposals by NGOs for the creation of a social taxonomy that would include guidance and standards for those investing in residential real estate. See: Directorate-General for Financial Stability, Financial Services & Capital Markets Union. (2021, July 12). Call for feedback on the draft reports by the Platform on Sustainable Finance on a social taxonomy and on an extended taxonomy to support economic transition. European Commission. https://finance.ec.europa.eu/publications/call-feedback-draft-reports-platform-sustainable-finance-social-taxonomy-and-extended-taxonomy_en

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107 The Good Economy, an impact advisory firm working with investors, has developed a framework that applies ESG principles to assess investors' social impact with respect to housing.

108 See, for example, B Corporation, which has developed a set of standards (including human rights) that businesses must meet to receive certification. It has also developed an independent Standards Advisory Council and a public complaints procedure.

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109 The Task Force on Inequality-related Financial Disclosures (TIFD) is conceived as an explicit systemic risk management framework that can reduce inequality created by the private sector. A collaboration among a broad range of stakeholders, TIFD will provide guidance, thresholds, targets, and metrics for companies and investors to measure and manage their impacts on inequality, as well as inequality's impacts on company and investor performance.

110 Human Rights Council. (2013, February 15). 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, para. 60. United Nations, General Assembly.

111 Human Rights Council. (2017, January 18). 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, para. 42. United Nations, General Assembly. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement

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113 The UN Special Rapporteur on the right to housing argues that as a specialized agency of the United Nations, by agreement entered into with the Economic and Social Council in accordance with Articles 57 and 63 of the Charter of the United Nations, the World Bank is "subject to international law, [and] required at a minimum to respect the purposes set forth in Article 55 of the Charter, including the "universal respect for, and observance of, human rights." Also: "Moreover, …the obligations of States parties to the international human rights treaties should be understood as extending to their membership of the World Bank." See: Human Rights Council. (2013, February 15). 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, para 9. United Nations, General Assembly. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/111/56/PDF/G1311156.pdf?OpenElement

IV. MAKING THE SHIFT-EXAMPLES

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