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Amman Center for Human Rights Studies

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**The Jordanian Landlords and Tenants Law
The Right to Adequate Housing**

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6th May, 2008

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The Jordanian Landlords and Tenants Law

I. Summary and Recommendations

According to the Landlords and Tenants Law (the Law), all leases negotiated before the year 2000, will expire by the end of the year 2010. It is estimated that the majority of existing leases within Amman will expire under this law, throwing the Jordanian rental market—especially for commercial properties—into chaos. As a response to this pending crisis, the Amman Center for Human Rights Studies (“ACHRS”), researched the situation in Jordan within the broader context of international human rights law. The multi-faceted investigation included a review of the relevant Jordanian legislation, study of recent press clippings and public discussion surrounding the Landlords and Tenants Law, and meetings with a variety of stakeholders and rental experts in Amman. Additionally, legal research on the right to adequate housing and Jordan’s obligations under international human rights law was conducted; it is annexed to this document. Guided by this research, the ACHRS has the following preliminary recommendations to offer:

- The current Landlords and Tenants Law must be amended. Any amendment efforts should be especially focused on efforts to avoid causing wide-scale homelessness and displacement. A large-scale lease termination and displacement could violate Jordan’s obligations under international human rights law. Large-scale chaos for both landlords and tenants may also result. To mitigate these concerns, a committee to review specific conflicts and the provision of alternate housing should be formed. A thorough investigation and legal research should be done to ensure that any government action or legal amendments are consistent with Jordan’s international obligations.
- The differing circumstances surrounding commercial and residential leases indicate that the new legislative scheme should deal with these two categories separately.

The following memorandum provides the results of the research undertaken; specifically, it discusses the Landlords and Tenants Law in-depth, presents the statements and recommendations made by the interviewed experts, and then provides the relevant international human rights law as general guidance that should be considered in any efforts to amend the Landlords and Tenants Law in Jordan.

II. History of the Landlords and Tenants Law

The history of the Jordanian legislation with regard to the relationship between landlords and tenants dates to 1941, with the enactment of the Landlords and Tenants Law (Temporary).¹ The 1941 law regulated the relationship between the landlords and tenants in housing and

¹ The Landlords and Tenants Law 23/1941, available at http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1941&no=23 (last accessed Feb. 19, 2008) (in Arabic).

commercial properties, and its tenor was decidedly pro-tenant.² Among other provisions, the Law stated that leases could be extended indefinitely if the tenant so desired,³ and that the rent would remain at the level established in the original lease unless as determined by a special rents committee and as authorized by the law.⁴ In addition, the law enumerated an exhaustive list of cases when an eviction might be ordered by the court.⁵ In 1943, the law was made permanent,⁶ and in 1953 it was replaced by a new Landlords and Tenants Law.⁷ Both subsequent laws followed the rules laid down by the 1941 law with only a few insignificant changes. This legal regime was in place for almost 30 years, until the government passed a new Landlords and Tenants Law in 1982.

Under the 1982 Law, the rent charged under extended leases was increased by different percentages depending on when the lease was originally signed.⁸ This law also allowed, but did not require, the government to increase or decrease rent in the interest of justice and the public good.⁹ The 1982 Law has further elaborated on the nature of the relationship between landlords, such as building over the rented property or renovating it, and the right of evicting the tenant in these cases while granting him the right to be compensated or return to the property whenever it was habitable.¹⁰ It also included a clause on transferring the tenant's right in the property to his family members.¹¹ The 1982 law was replaced by a similar one in 1994, which obligated the government to examine the rent level at least once every five years.¹²

III. The 2000 Amendment

The latest amendment of the Landlords and Tenants Law, which occurred in 2000, resulted from a review by a Ministry of Justice committee of existing rental laws, in response to changes to similar laws in other countries in the region.¹³ In Jordan, the amendment was an effort to address the perception that the existing legal regime favored the rights of tenants over those of landlords, and granted tenants a significant amount of power over a given rental property that they occupied. While the 2000 amendments made a number of changes, the most significant was in Article 5. The article established December 31, 2010 as the termination date

² Interview with Dr. Abdul Rahman Juma'a, Lecturer, Jordan University, in Amman, Jordan. Jan. 20, 2008 [hereinafter Abdul Rahman Interview].

³ The 1941 Landlords and Tenants Law, *supra* note 1, art. 3.

⁴ *Id.*, art. 5-7.

⁵ *Id.*, art. 3.

⁶ The 1943 Landlords and Tenants Law, 26/1943, available at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=26&year=1943 (last accessed Feb. 19, 2008) (in Arabic).

⁷ The 1953 Landlords and Tenants Law, 62/1953, available at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=62&year=1953 (last accessed Feb. 19, 2008) (in Arabic).

⁸ The 1982 Landlords and Tenants Law, art 14, available at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=29&year=1982 (last accessed Feb. 19, 2008) (in Arabic).

⁹ *Id.*, art. 17.

¹⁰ *Id.*, art. 9.

¹¹ *Id.*, art. 7.

¹² The 1994 Landlords and Tenants Law, art. 17, available at http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1994 (last accessed Feb. 19, 2008) (in Arabic).

¹³ The Egyptian Constitutional Court overturned a nearly identical law in Egypt. Abdul Rahman Interview, *supra* note 2.

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for all leases signed prior to the passage of the March 2000 amendments.¹⁴ Furthermore, any leases signed after the March 2000 cutoff date must adhere to the terms negotiated between the landlord and the tenant, including the agreed-upon termination date.¹⁵

When the government established December 31, 2010, as the termination date for all leases entered into before March 2000, it imagined that a ten-year period would be sufficient to provide tenants and landlords the opportunity to renegotiate leases or make alternative arrangements.¹⁶ In addition, large numbers of Iraqi and Palestinian refugees were expected to leave Jordan, primarily in response to the Israeli-Palestinian peace process and any possible political reforms in Iraq.¹⁷ Unfortunately, this out migration did not occur: instead, since 2002, more than 500,000 additional Iraqis¹⁸ have fled the war and sought refuge in Jordan, and the already large number of Palestinians—both refugees and Jordanian citizens—have only increased since the beginning of the Second *Intifada* on September 28, 2000.¹⁹ Thus, most tenants have remained in their current homes and storefronts, and with the 2010 deadline looming, they have no plans for the future.²⁰ It is also noteworthy that the flow of Iraqi refugees to Jordan has caused a drastic increase in real estate prices—another factor that has hampered the creation of alternative housing solutions.²¹

Given the urgency of this situation, in his speech opening the 15th Parliament, His Majesty King Abdullah declared 2008 to be a special housing year.²² The King urged the parliament and the government to look for a just solution regarding the Landlords and Tenants Law:

¹⁴ The 1994 Landlords and Tenants Law, *supra* note 12, art. 5(a); *see also* Interview with Zuhair Al-Omari, President, Jordan Housing Developers Association, in Amman, Jordan, Jan. 20, 2008 [hereinafter Al-Omari Interview].

¹⁵ The 1994 Landlords and Tenants Law, *supra* note 12, art. 5(b).

¹⁶ *See* Interview with Judge Dr. Mohammad Al-Tarawneh, Palace of Justice, in Amman, Jordan, Jan. 21, 2008 [hereinafter Al-Tarawneh Interview].

¹⁷ *Id.*

¹⁸ The official number is 519,488. Refugees and Asylum Seekers, UNHCR 2006 Statistical Yearbook, Trends in Displacement, Protection and Solutions, Statistical Annex, at 2, available at <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?id=478ce34a2&tbl=STATISTICS> (last accessed May 5, 2008).

¹⁹ The registered Palestinian refugees in Jordan according to the UN is 1,858,362. *See* <http://www.un.org/unrwa/publications/index.html> (last accessed May 5, 2008).

²⁰ Note that it is unclear exactly how many homes or shops will be affected if the Law is not amended. For example, one article in the Jordan Times claims that “60 percent of all tenants” may be affected. *See* Mansur, Yusuf, *Fixing the Rent Law*, Jordan Times, Aug. 28, 2007. However, The Housing and Urban Development Corporation (“HUDC”) believes that only 30,000 leases will be affected, accounting for only 4-5% of the total units rented in Jordan. *See* Interview with Mrs. Architect Mai Kh. Asfour, Director General’ Consultant, Foreign Affairs & International Cooperation [hereinafter Asfur Interview], and Mr. Architect Soleiman Hasanat, Senior Director of Housing Policies, HUDC [hereinafter Hasanat Interview], in Amman, Jordan, Jan. 22, 2008.

²¹ Interview with Salim Qbilat, Al-Wihda newspaper, journalist, in Amman, Jordan, Jan. 20, 2008 [hereinafter Qbilat Interview]; *see also*, USA Today, *Iraqi refugees spur housing boom*, at http://www.usatoday.com/news/world/2005-07-21-csm-damascus-housing_x.htm (last accessed May 5, 2008); Colliers International, MENA Region, *Amman Real Estate Overview*, at http://www.colliers.com/Content/Repositories/Base/Markets/UAE/English/Market_Report/PDFs/AmmanMarketOverviewQ42007.pdf (last accessed May 5, 2008).

²² The Royal Speech in Opening the Regular First Term of the 15th National Assembly, Dec. 2, 2007, available at http://www.pm.gov.jo/arabic/index.php?page_type=pages&part=1&page_id=288 (last accessed May 5, 2008) (in Arabic) [hereinafter The Royal Speech].

I directed my government to let the year 2008, with God's will, be the year of housing projects, to secure those with limited income, and the employees of the public sector, the armed forces and the security bodies with adequate housing. . . . From this democratic stage, I also invite you, the legislative and executive authorities, to start a positive dialogue on the Landlords and Tenants Law, seeking practical solutions that take into consideration the realization of social security, justice and the goods for all, landlords and tenants.²³

Acting under His Majesty's request, on January 8, 2008, Prime Minister Nadir Al-Dahabi sent a letter to the Minister of Political Development and State Legal Issues, the Minister of Finance, the Minister of Public Works and Housing and the Minister of Justice, informing them of the formation of a new inter-ministerial committee with the following mandate:

Study the 1994 Landlords and Tenants Law and its amendment from the year 2000, while respecting all opinions through engagement in a positive dialogue that includes lawyers, experts and commerce and industry chambers, aiming to reach a formula that balances between the tenant's right to appropriate housing and the landlord's right to benefit from his property.²⁴

At the same line, the Minister of Justice has sent a letter to more than ninety persons and groups²⁵ within the Jordanian community, including civil society and non-governmental organizations, asking for input on the issue.²⁶ While the ultimate decisions made by the inter-ministerial committee are yet to be seen, what follows below are some aspects of the public debate on the Landlords and Tenants Law that has been taking place between a variety of government representatives, civil society members and academics.

IV. Jordanian Debate on the Landlords and Tenants Law

1. Toward an Amendment

A close look at Jordanian newspapers between November 2007 and January 2008 reveals a broad, ongoing debate within Jordanian society surrounding the Landlords and Tenants Law. Public opinion is divided: the majority supports some form of amendment to the Law to enable most current renters to remain in their current leased homes and storefronts, but other voices disagree. A January 16, 2008 interview with four Jordanian residents about the current Law suggested that not everyone feels the same. While three interviewees felt that the Law as amended in 2000 will lead to a social and economic crisis, the fourth stated that the Law is

²³ *Id.*

²⁴ Prime Minister, Mr. Nadir Al-Dahabi's letter to the Minister of public works and housing, Letter No. t19/11/1/428, Jan. 8, 2008 (in Arabic) [hereinafter Al-Dahabi Letter]. The letter also stated that it follows his first letter from Dec. 9, 2008. *Id.*

²⁵ Omar Maharmih, Ad-Dustur Newspaper, June 1, 2008 (in Arabic).

²⁶ Mr. Ayman Udih, Minister of Justice, letter to the Director General of the HUDC dated Dec. 30, 2007 [hereinafter Udih Letter]. This letter was sent before the formation of the committee by the Prime Minister.

appropriately returning power to the landlords.²⁷ Similarly, the academics and professionals we spoke to in January 2008 have varied views on the desirability and feasibility of such an amendment. Most experts agreed on the desirability of an amendment, but one interviewee supported maintaining the existing law, due to his concern that tenants, landlords, and real estate investors in particular have now come to rely on the expiration of old leases in 2010.²⁸ If the Law is changed, he asserted that those investors and others who have planned and invested in accordance with the current legal regime will be at a disadvantage.²⁹ In addition, he said it will deter foreign investors from investing in Jordan, negatively affecting the economy.³⁰ Nevertheless, another expert concluded that based on the current governmental climate there is little to no chance that the Law will not be amended in some way, despite concerns about reliance.³¹

The interviews that were held emphasized that the issue should be resolved with a spirit of collaboration. While some news accounts indicate that the dispute is one of landlords versus tenants, in reality the division is not so clear. The issue is affecting the large portions of Jordanian communities and the economy. Both landlords and tenants are citizens, and need both viable housing alternatives and reasonable means of making a living.³² A strong housing market will also attract investors into the Jordan economy, thereby benefiting all Jordanian citizens. A number of experts invoked this idea of balancing disparate interests. Further, at least one expert was careful to explain that the looming housing crisis is not a governmental problem, but is a problem between landlords who ask for too much money and tenants who currently pay too little, as compared to other properties with similar features.³³

2. Separate Commercial and Residential Rental Laws

A number of experts proposed the idea of two different legal regimes to deal separately with commercial and residential leases.³⁴ Because there are certain characteristics unique to residential leases that do not apply to commercial leases, and vice versa, a strong legal system supporting rentals could differentiate between the two categories. The idea of this differentiation seems to be based in large part on the difficulty of relocating long-standing small businesses, and on the unfairness inherent in evicting restaurateurs or shop-keepers who have in some cases invested hundreds of thousands of Jordanian Dinars into improvements of their rental unit.

a. Residential

²⁷ Ad-Dustoor Newspaper, Jan. 16, 2008 (in Arabic).

²⁸ Abdul Rahman Interview, *supra* note 2.

²⁹ *Id.*

³⁰ *Id.*

³¹ Al-Tarawneh Interview, *supra* note 16.

³² Al-Omari Interview, *supra* note 14.

³³ Abdul Rahman Interview, *supra* note 2.

³⁴ Al-Omari Interview, *supra* note 14; *see also* Interview with Mohammad Mouhtaseb, Managing Committee Member, Amman Chamber of Commerce, in Amman, Jordan, Jan. 20, 2008 [hereinafter Mouhtaseb Interview]; *see also* Asfur Interview and Hasanat Interviews, *supra* note 20.

As regards residential leases, there is a general sentiment that the current law, which may result in widespread evictions, is unsatisfactory. However, more than one expert made clear that returning to the old law, with indefinite extensions of leases at the original rent, is unacceptable.³⁵ Some believe there needs to be a new law relating to residential leases, one that balances the interests of both landlords and tenants. To this end, a number of suggestions were made regarding the particulars of a new residential rental law. One suggestion was that residential units that have been rented under contracts formed before March 2000 must be subject to an increase in rent. That increase could be established by a committee, with reference to the cost of surrounding units and the age and condition of the unit at issue. Other elements such as inflation and income were suggested as additional considerations to be taken into account when determining the rent revision.³⁶

Some interviewees also argued that a new law should not allow leases to be inherited between family members, as is the case under Article 7 of the current Landlords and Tenants Law. Instead, if the leaseholder ceases to possess the property—for example, if s/he moves or dies—a new tenant should be required to renegotiate with the landlord, even if s/he is a relative of the prior tenant.³⁷ While the landlord should be permitted to set a negotiated rent, the permissible increases in the rent amount should also be limited by law. Another recommendation was that in cases where a landlord has no alternative housing and wishes to evict current tenants in favor of members of his/her own family, eviction should be permitted only if the landlord's family members then reside in the unit for at least two years. If the former tenant can demonstrate that this was not the case, the landlord would be liable for damages.³⁸

b. Commercial

Experts suggested that, assuming a division between residential and commercial rental law, the terms of commercial rental laws should be more attuned to the particularities of each case. This is not only due to the fact that a large portion of storefronts in Amman are leased,³⁹ but also due to the unique difficulties involved in relocating a small, well-established business. While it is admittedly also difficult for families to move, the relocation of a business, for instance, from a unit in downtown Amman from which it has been operating for decades could destroy the business. Removed from its established clientele, and placed in a new neighborhood which may not be as favorable an environment for the goods or services offered, could greatly affect the relocated business.⁴⁰ Further, there is concern that shop and restaurant owners, in

³⁵ Abdul Rahman Interview, *supra* note 2; *see also* Mouhtaseb Interview, *supra* note 34; *see also* Al-Omari Interview, *supra* note 14.

³⁶ Qbilat Interview, *supra* note 21; and Al-Omari Interview, *supra* note 14.

³⁷ Al-Omari Interview, *supra* note 14.

³⁸ *Id.* A similar clause exists under article 5(9) of the current Law: if mentioned in the contract, the landlord has the right to evict the tenant in order to live in his property if he does not live in the same area and he has no other housing unit in that area. The same clause existed in older laws as well. However, application was not conditioned on inclusion within the contract. *See* the 1941 Landlords and Tenants Law, *supra* note 1, art. 3(5); the 1943 Landlords and Tenants Law, *supra* note 6, art. 12 (e); the 1953 Landlords and Tenant Law, *supra* note 7, art. 4(e).

³⁹ Mouhtaseb indicated that about 70% of the commercial places in Amman are rented. *See* Mouhtaseb Interview, *supra* note 34. However, one interview published in Ad-Dustoor newspaper indicated that the percentage may be 90%. *See* Ad-Dustoor, *supra* note 27.

⁴⁰ Mouhtaseb Interview, *supra* note 34.

reliance on the old Landlords and Tenants Law, have invested substantial money in improving the rented unit, money that cannot be recouped if they are evicted in 2010.⁴¹ These and other factors make it apparent that, in most cases, the landlord will have substantially stronger bargaining power, and may therefore demand higher than reasonable rent.

Because of these difficulties specific to property leased for commercial purposes, experts implied that most if not all current tenants should be allowed by law to remain on the premises under new leases. While the landlords would benefit from a reasonable increase in rent, this increase should be determined by a committee of experts from government, civil society, and other interested groups. Again, one of the considerations in establishing the new rent should be the age and condition of the rented unit as well as comparison with similar properties in the surrounding area.⁴²

An additional pro-tenant suggestion made for commercial leases could be designed specifically to encourage new businesses. Given the danger of failure posed to any new business, a new long-term commercial lease should be permitted to contain a clause that allows the lease to be broken without penalty if the business fails within the first three years. If a business fails after that, the tenant should be given the ability to sub-lease the property to a third party, on the condition that the original tenant would function as a guarantor for the subtenant. This arrangement would ensure that new commercial activity is not discouraged by the threat of a binding ten-year lease for a risky business venture.⁴³

V. Conclusion and Recommendations

The Landlords and Tenants Law affects a substantial segment of the Jordanian community, and with the year 2010 approaching, the Jordanian authorities, as well as the majority of the Jordanian people, realize that there should be a governmental intervention to change the existing situation and avoid its consequences. In light of various suggestions discussed above, the ACHRS make the following recommendations:

- Given the risk of large-scale eviction and displacement under the current Law, there is definite need for governmental involvement in this matter and **the Landlords and Tenants Law must be amended.**
- **The amendment to the Law should be made as soon as possible, so that tenants, landlords, investors and the Jordanian community can plan accordingly.**
- This amendment should **balance both the rights and the needs of tenants and landlords**, rather than favoring one over the other.
- Because of the different particularities of commercial and residential leases, **the Law should address residential and commercial leases separately.**
- The potential social crisis that could result in 2010 must be avoided—**the amended Law must be designed to avoid wide-scale displacement or homelessness, and should provide for alternate housing as needed.**
- Finally, given the complexities of the issue, **a committee should be formed to evaluate**

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

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the current situation and to monitor rental law as necessary in the future, to avoid a similar crisis from evolving again. Such a committee should ensure sufficient participation and representation of possibly affected parties.

- **When addressing the Law, Jordan must be guided by the principles embodied in the right to adequate housing. Accordingly, Jordan must recognize, respect, protect and fulfill the right to adequate housing, and meet its legal obligations, as outlined in the annexed memorandum.**

The Human Right to Adequate Housing

Under international law, all states must ensure the realization, for all persons, of the right to adequate housing for themselves and their families.⁴⁴ Article 25(1) of the Universal Declaration of Human Rights (“UDHR”) sets forth the right of each individual “to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services.”⁴⁵ The UDHR, while not binding international law, nevertheless has been determined by the community of states to “constitute[] an obligation for the members of the international community.”⁴⁶ Article 25(1) of the UDHR has been subsequently included and elaborated upon in many international human rights treaties, many of which Jordan has signed and ratified, thereby agreeing adhere to them.

I. Binding International Law

Jordan is bound to uphold the right to adequate housing under international law by virtue of having signed and ratified a number of international human rights treaties. First, the right to housing is protected in the two Covenants, which together with the UDHR form the International Bill of Rights. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires states parties to the Covenant to 1) “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate . . . housing, and to the continuous improvement of living conditions”, and 2) to “take appropriate steps to ensure the realization of this right.”⁴⁷ The International Covenant on Civil and Political Rights (ICCPR), which prohibits Jordan from arbitrarily and unlawfully interfering in the privacy, families, and homes of individuals in Articles 17 and 26,⁴⁸ also “constitutes a very important dimension in defining the right to adequate housing.”⁴⁹ This right to security of the home and of property is also enshrined in Articles 10, 11 and 12 of the Jordanian Constitution.⁵⁰

The right to adequate housing is also recognized in three additional international conventions to which Jordan is a signatory: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD),⁵¹ the Convention on the Elimination of All Forms

⁴⁴ See, e.g., Economic and Social Council Resolution 1987/62, “The realization of the right to adequate housing,” 29 May 1987.

⁴⁵ G.A. res. 217 A (III) (10 Dec. 1948).

⁴⁶ Proclamation of Teheran, International Conference on Human Rights at Teheran (13 May 1968), para. 2

⁴⁷ G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, ratified by Jordan 28 May 1975, entered into force Jan. 3, 1976.

⁴⁸ G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, ratified by Jordan 28 May 1975, entered into force Mar. 23, 1976.

⁴⁹ Committee on Economic, Social and Cultural Rights, “General Comment 4: The right to adequate housing,” para. 9 (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 18 (2003) [hereinafter General Comment 4].

⁵⁰ The Constitution of The Hashemite Kingdom of Jordan, Jan. 1, 1952.

⁵¹ G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force Jan. 4, 1969, accessed by Jordan June 29, 1974.

of Discrimination Against Women (CEDAW),⁵² and the Convention on the Rights of the Child (CRC).⁵³ Each of these conventions reinforces Jordan's obligation under international law to uphold the right to adequate housing; moreover, each imposes special obligations to ensure that this right is respected in the case of social groups that are vulnerable on account of their race, ethnicity, gender, nationality, or age. Under CERD, Jordan must guarantee the equal enjoyment of the right to adequate housing to all men and women, without distinction as to race, color, or national or ethnic origin.⁵⁴ CEDAW requires Jordan to uphold the right of women to adequate housing and to ensure that the right is available to all women without discrimination.⁵⁵ The CRC requires states parties to implement the social and economic rights of children, including the right to housing.⁵⁶

II. Persuasive International Law

The right to adequate housing is protected by a number of other international conventions to which Jordan is not yet a party, but the provisions of which have significant moral force, as they reflect the norms of the international community. Of special authoritative significance to Jordan, given its high number of Palestinian and Iraqi Refugees, is Article 21 of the Convention Relating to the Status of Refugees.⁵⁷ The right is also protected in Article 43(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families⁵⁸ and Articles 10, 21(1) and 23 of the Declaration on the Rights of Indigenous Peoples.⁵⁹

The right to adequate housing is further reinforced in a number of UN declarations and resolutions affirming its status as a basic right "universally recognized by the community of nations,"⁶⁰ *inter alia* the UN Global Strategy for Shelter to the Year 2000 (Article 13),⁶¹ the UN

⁵² G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981, ratified by Jordan July 31, 1992.

⁵³ G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2 1990, ratified by Jordan July 23, 1991.

⁵⁴ Article 5 reads as follow: "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . (e) Economic, Social and Cultural rights in particular: . . . (iii) The right to housing." CERD, *supra* note 8.

⁵⁵ See, e.g., CEDAW, *supra* note 9, arts. 2(f), 5, 13 14(2), and 15.

⁵⁶ CRC, *supra* note 10, art. 27(3).

⁵⁷ 189 U.N.T.S. 150, adopted 28 July 1951 by the U.N. Conference of Plenipotentiaries of the Status of Refugees and Stateless Persons, entered into force on 22 Apr. 1954. Article 21 states: "As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances." *Id.*

⁵⁸ G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force 1 July 2003 ("Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to: . . . (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents.").

⁵⁹ U.N. Doc. E/CN.4/Sub.2/1994/2/Add.1 (1994).

⁶⁰ U.N. Global Strategy for Shelter to the Year 2000, art. 13, G.A. Res 43/181 (20 Dec. 1998) ("All nations without exception, have some form of obligation in the shelter sector. . . . All citizens . . . poor as they may be, have a right

Declaration of the Rights of the Child (Principle 4),⁶² the UN Declaration on Social Progress and Development (Part II, Article 10),⁶³ the UN Declaration on the Right to Development (Article 8(1)),⁶⁴ the Vancouver Declaration on Human Settlements (Paragraph 8)⁶⁵ and the Istanbul Declaration on Human Settlements (Paragraphs 8 and 15).⁶⁶

General Assembly Resolutions 41/146⁶⁷ and 42/146⁶⁸ on the “realization of the right to adequate housing” respectively condemn the denial of the right to adequate housing to millions of men and women and enjoin both the international community and individual states to “pay special attention to [its] realization. . . .” The right is further elaborated upon in a number of resolutions by the Commission on Human Rights, among them Resolution 1986/36,⁶⁹ which “reiterates the right of all persons to an adequate standard of living for themselves and their families, including adequate housing,” Resolution 1987/22,⁷⁰ which demands the promotion of the right to adequate housing at the national and international levels, and Resolution 1993/77,⁷¹ which condemns forced evictions as a violation of the housing right. These resolutions have been echoed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities,⁷² and by the Commission on Human Settlements.⁷³

Provisions in several regional human rights instruments, including the Charter of the Organization of American States (Article 31(k))⁷⁴ and the European Convention on Human Rights and Fundamental Freedoms (Article 8.1),⁷⁵ also guarantee the right to adequate housing to all individuals.

III. Scope of the Right to Adequate Housing

to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them.”).

⁶¹ *Id.*

⁶² G.A. Res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354 (1959) (“The child shall have the right to adequate . . . housing.”).

⁶³ G.A. Res 2542 (XXIV) (11 Dec. 1969) (“Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, . . . through the attainment of the following main goals: . . . (f) The provision for all, particularly persons in low-income groups and large families, of adequate housing and community services.”).

⁶⁴ G.A. Res 41/128 (4 Dec. 1986) (“States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter-alia, equality of opportunity for all in their access to . . . housing . . . [and] that women have an active role in the development process.”).

⁶⁵ UN Doc. A/CONF.165/PC.1/INF.8 (1976) (“Adequate shelter and services are a basic human right which places an obligation on governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action.”).

⁶⁶ United Nations Conference on Human Settlements (Habitat II), UN GAOR, UNDoc A/Conf.165/14 (1996).

⁶⁷ Adopted on 4 Dec. 1986.

⁶⁸ Adopted on 7 Dec. 1987.

⁶⁹ “The realization of the right to adequate housing,” adopted on 12 Mar. 1986.

⁷⁰ “The realization of the right to adequate housing,” adopted on 10 Mar. 1987.

⁷¹ “Forced evictions,” adopted on 10 Mar. 1993.

⁷² In Resolution 1991/12 on “Forced evictions,” adopted 28 Aug. 1991, and Resolution 1991/26, on “Promoting the realization of the right to adequate housing,” adopted 29 Aug. 1991.

⁷³ In Resolution 14/6 on “The human right to adequate housing,” adopted on 5 May 1993.

⁷⁴ 119 U.N.T.S. 3, entered into force Dec. 13, 1951, entered into force as amended Jan. 29, 1996.

⁷⁵ As amended by Protocol No. 11, Rome, 4.XI.1950

1. The Principle of Adequacy

Adequacy is a key component in the definition of the right to adequate housing as a right to live in security, peace, and dignity. The Committee on Economic, Social, and Cultural Rights (Committee on ESCR) and the Special Rapporteur on the Right to Adequate Housing have authoritatively defined “adequate housing” as consisting of sixteen factors, the enjoyment of which must not be subject to any discrimination of the kind discussed below. **The sixteen elements are:** (1) legal security of tenure; (2) availability of services, materials, facilities and infrastructure; (3) affordability; (4) habitability; (5) accessibility; (6) location; (7) cultural adequacy; (8) access to land, water and other natural resources; (9) freedom from dispossession, damage and destruction; (10) access to information; (11) participation; (12) resettlement, restitution, compensation, non-refoulement and return; (13) privacy and security; (14) access to remedies; (15) education and empowerment and (16) freedom from violence against women.⁷⁶

2. The Principle of Indivisibility

All human rights are “universal, indivisible, interdependent and interrelated.”⁷⁷ The right to adequate housing must be interpreted within this context. It has an especially close connection with other economic, social and cultural rights, because it is central to the realization of “the right to an adequate standard of living.”⁷⁸ Thus the right to housing is of especially “central importance to the enjoyment of all economic, social, and cultural rights.”⁷⁹ At the same time, its full enjoyment by all groups in society is dependant on their enjoyment of many other human rights, ranging from “the right to freedom of residence” to “the right to participate in public decision-making.”⁸⁰

The principle of indivisibility must inform each state’s interpretation of the scope of the right to adequate housing. Because the right to adequate housing is tied to “the fundamental principles upon which the Covenant was premised,” it must be broadly interpreted as protecting not “the shelter provided by merely having a roof over one’s head” but rather the equal right “to live somewhere in security, peace and dignity.”⁸¹

The principle of indivisibility in the context of the right to adequate housing applies “irrespective of income or access to economic resources,”⁸² and is especially important with respect to women. The Special Rapporteur on Adequate Housing has emphasized the especially

⁷⁶ See General Comment 4, *supra* note 6, para. 8 (citing factors (1) through (7)); Special Rapporteur on the Right to Housing, “Women and Adequate Housing,” para. 11, E/CN.4/2006/118 (27 Feb. 2006) (adding factors (8) through (16)), for the 16 factors and elaborations thereon.

⁷⁷ See, e.g., The Report of the United Nations Conference on Human Settlements (Habitat II), para. 26, Istanbul, June 3-14, 1996, U.N. Doc. A/CONF.165/14, para. 27 (1996) [hereafter Habitat Agenda]; Vienna Declaration, World Conference on Human Rights, Vienna, 14 - 25 June 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993) [hereafter Vienna Declaration].

⁷⁸ General Comment 4, *supra* note 49, para. 1.

⁷⁹ *Id.*

⁸⁰ *Id.*, para. 9.

⁸¹ *Id.*, para. 7; see also the Habitat Agenda, *supra* note 3477, para. 15 (exhorting states to build “a world where everyone can live in a safe home with the promise of a decent life of dignity, good health, safety, happiness and hope.”).

⁸² General Comment 4, *supra* note 6, para 7.

pertinent interconnection, for women, of housing rights with the rights to land, property, inheritance, and equal treatment.⁸³ This is because for women adequate housing is especially likely to constitute “a source of livelihood and survival.”⁸⁴

3. The Principle of Nondiscrimination

Jordan has a binding obligation under international law to provide equal protection and provision of the right to adequate housing enshrined in the International Bill of Rights to all persons and groups within society. The right to adequate housing applies equally to women and to men, to individuals and to families, and its enjoyment may not be subject to any form of discrimination, including discrimination based on age and economic status as well as discrimination based on group or any other affiliation.⁸⁵ All states must, in realizing the right to housing, ensure equal “legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.”⁸⁶

Special protection for the right to adequate housing right for social groups marginalized by race, ethnicity, gender, nationality, or age, is specifically required by the CRC, CERD, and CEDAW. The CRC enjoins states parties to “take appropriate measures to assist parents and others responsible for the child to implement this right” and, in case of need, to “provide material assistance and support programmes, particularly with regard to . . . housing.”⁸⁷ Under CERD, states must guarantee the equal enjoyment of the right to adequate housing to all individuals, without discrimination on the basis of race, color, or national or ethnic origin.⁸⁸ CEDAW requires Jordan to condemn discrimination against women (Article 2(f)) by taking measures to eliminate it in all areas, including in the area of economic and social life (Article 13) and marriage and family relations (Article 16); taking measures to eliminate bias and practices based on women’s inferiority (Article 5); according them equality before the law, including equal rights to conclude contracts and administer property (Article 15).⁸⁹ Article 14(ii)(h) is

⁸³ E/CN.4/2006/118, 27 February 2006, Economic, Social and Cultural Rights, Women and adequate housing, Report by the Special Rapporteur Miloon Kothari, paras. 14, 87.

⁸⁴ Miloon Kothari, U.N. Doc. E/CN.4/2006/118 (2006) at 6; Habitat International Coalition at 3; Habitat International Coalition: Housing and Land Rights Network, “Women and Housing Rights: A Legal Overview,” 1 December 2001 at 3, available at <http://www.hic-mena.org/docList.asp?Id=204> (last accessed Apr. 24, 2008).

⁸⁵ “[T]he reference to ‘himself and his family’ reflects assumptions as to gender roles . . . commonly accepted in 1966 . . . [but] the phrase [does not imply today] any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of ‘family’ must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.” General Comment 4, *supra* note 6, at para. 6; *see also* ICESCR, *supra* note 4, art. 2(2).

⁸⁶ The Habitat Agenda, *supra* note 34, para. 27, elaborates: “[e]quitable human settlements are those in which all people, without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, have equal access to housing, infrastructure, health services, adequate food and water, education and open spaces . . . [and which] provide equal opportunity for a productive and freely chosen livelihood; equal access to economic resources . . . ; equal opportunity for participation in public decision-making; equal rights and obligations with regard to the conservation and use of natural and cultural resources; and equal access to mechanisms to ensure that rights are not violated.”

⁸⁷ CRC, *supra* note 1053, art. 27(3)

⁸⁸ CERD, *supra* note 8, art. 5(e)(iii)

⁸⁹ CEDAW, *supra* note 9.

particularly relevant, as it requires states to ensure that rural women equally participate in and benefit from rural development, and particularly requires states to ensure to those women the right to enjoy adequate living conditions “particularly in relation to housing” and other related municipal services (Article 14(2)).⁹⁰

Additionally, Jordan should recognize in implementing the right to adequate housing that a combination of factors make some groups vulnerable to multiple discrimination. For example, women may face compounded obstacles in realizing the housing right due to the combination of their gender with their “race, caste, ethnicity, age,” and often “also due to their relative impoverishment and lack of access to social and economic resources.”⁹¹

IV. Applying the Right to Adequate Housing

In order to fulfill its international legal obligations, Jordan must respect, protect and fulfill the right to adequate housing, without discrimination.⁹² The particular practical requirements that flow from these obligations under the right to adequate housing are fleshed out in ICESCR Committee General Comments 4, 7 and 16. The Committee on ESCR itself also explains some of the ways in which Jordan should fulfill its obligations to respect, protect and fulfill. Most basically, under the ICESCR, Jordan is obliged to immediately ensure “minimum essential levels of each [ESCR] right,” including the right to housing.⁹³ Article 2.1 provides a few further guidelines which are “of central importance for determining what Governments must do and what they should refrain from doing in the process leading to the society-wide enjoyment of [the housing] right[.]”⁹⁴ Under Article 2.1, a state must “take steps . . . to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”⁹⁵

1. Recognizing

⁹⁰ G.A. Res 34/180 (18 Dec. 1979), entered into force 3 Sept. 1981.

⁹¹ Special Rapporteur, “Women and Adequate Housing,” *supra* note 33, para. 31. These include “victims of domestic violence, widowed, elderly, divorced or separated women, female-headed households, women forcibly separated from their children, women victims of forced evictions, indigenous and tribal women, women with disabilities and women in conflict/post-conflict situations, women from ethnic and national minorities, including refugees, migrant women workers, women from descent- and work-based communities, domestic women workers, sex workers, and lesbian and transgender women.” *Id.*, para 30. Other vulnerable groups are “single women, in particular single mothers and elderly women.” *Id.*, para. 53.

⁹² *See, e.g.*, Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights, paras. 16-21 and 28, U.N. Doc. E/C.12/2005/3 (2005).

⁹³ U.N. Fact Sheet No. 21, The Human Right to Adequate Housing, available at <http://www.unhchr.ch/housing/fs21.htm#obligations> (last accessed Apr. 23, 2008) (“Under the same Covenants, a State party in which any significant number of individuals is deprived of basic shelter and housing is, *prima facie*, failing to perform its obligations under the Covenant.”).

⁹⁴ *Id.* The Fact Sheet elaborates that “Three phrases in this article are particularly important for understanding the obligations of Governments to realize fully the rights recognized in the Covenant, including the right to adequate housing : (a) undertakes to take steps . . . by all appropriate means; (b) to the maximum of its available resources; and (c) to achieve progressively.” *Id.*

⁹⁵ *Id.*

In order to fulfill its duty to recognize the right to adequate housing, a state must first recognize it as a human right and “ensure that no measures of any kind are taken with the intention of eroding [its] legal status.”⁹⁶ Jordan’s publishing of the ICESCR, the ICCPR, CERD and CRC in the Official Gazette⁹⁷ was an important step in providing the rights enshrined therein with “the force of law,” “enforceable in the courts,” and thus in achieving compliance with the duty to recognize the right to adequate housing.⁹⁸ In order to satisfy its obligations under Article 11(1), Jordan must also immediately publish CEDAW in the Official Gazette. Jordan must also engage in “effective monitoring” of the housing situation by taking “whatever steps are necessary . . . to ascertain the full extent of homelessness and inadequate housing within its jurisdiction.”⁹⁹

2. Respecting

Jordan must take steps to meet its obligation to respect the right to adequate housing. The duty to respect is necessary to several of the sixteen important aspects of the right to housing, namely (1) legal security of tenure; (9) freedom from dispossession, damage and destruction; (11) participation; (12) resettlement, restitution, compensation, non-refoulement and return; (13) privacy and security; and (16) freedom from violence against women. The obligation, as the Committee on ESCR has explained, often requires only “the abstention by the Government from certain practices and a commitment to facilitating self-help by affected groups.”¹⁰⁰ In other words, Jordan may not take any “measures not in accordance with international law” which impede the realization of the housing right.¹⁰¹ It must also “cease any practices which could or do result in the infringements of the human right to adequate housing, in particular . . . forced, mass evictions and any form of racial or other discrimination in the housing sphere.”¹⁰²

The practice by states of forced or arbitrary eviction of persons and groups is a blatant violation of the duty to respect the right to adequate housing. States must “respect people’s rights to build their own dwellings and order their environments in a manner which most effectively suits their culture, skills, needs and wishes.”¹⁰³ Consequently, they must “refrain from forced evictions” from these (or any) dwellings without due process of law or the

⁹⁶ *Id.*

⁹⁷ United Nations Development Program, “Jordan: Achievements on the Road to Good Governance,” para. 1, available at <http://www.pogar.org/countries/humanrights.asp?cid=7#sub4> (last accessed Apr. 23, 2008).

⁹⁸ *See, e.g.*, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Jordan, paras. 11, 23, E/C.12/1/Add.46 (1 Sept. 2000).

⁹⁹ General Comment 4, *supra* note 6, para. 13 (“In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need.”). Vulnerable groups include “homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in ‘illegal’ settlements, those subject to forced evictions and low-income groups.” *Id.*

¹⁰⁰ *Id.*, para. 10.

¹⁰¹ Vienna Declaration, *supra* note 34, para. 31.

¹⁰² Commission on Human Settlements resolution 14/6, *supra* note 30.

¹⁰³ Vienna Declaration, *supra* note 34, para. 31.

proffering of resettlement plans.¹⁰⁴ This obligation is reinforced Article 17(1) of the ICCPR, “which complements the right not to be forcefully evicted without adequate protection.”¹⁰⁵ Another measure that infringes upon the right to housing would be “restricting the full enjoyment of the right to popular participation by the beneficiaries of housing.”¹⁰⁶ Rather, Jordan must “promote participation in decision-making processes and inclusion of relevant stakeholders in the planning stage of urban or rural development, in particular at the local level,” in addressing the implementation of the right to housing.¹⁰⁷

Jordan must also respect the right to adequate housing by refraining from “discriminatory actions that directly or indirectly result in the denial of the equal right” to housing to both men and women, as well as to other marginalized groups.¹⁰⁸ Further, it may not adopt, and must repeal existing laws, “policies, administrative measures and programmes that do not conform” with the right to adequate housing and with an equal implementation of that right among all groups in society.¹⁰⁹ For example, women in all groups are especially vulnerable to housing rights violations, particularly in the context of forced evictions, “given the extent to statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless;” the state must immediately repeal existing laws which discriminate against women in this fashion.¹¹⁰

3. Protecting

Jordan’s obligation to protect the right to adequate housing requires it not only to refrain from committing acts which impinge upon the right but also to protect all rights-holders from such violations by third parties, such as landlords or property developers, and to provide access to legal redress if violations occur.¹¹¹ Some acts, like forced evictions by third parties, may directly violate the right to housing; others, like “discrimination, harassment, withdrawal of services,” more indirectly violate the right.¹¹² The obligation to protect overlaps with the obligation to respect. In terms of the sixteen elements of the right to adequate housing described

¹⁰⁴ ESCR Concluding Observations: Jordan, *supra* note 55, para. 37 (“In accordance with article 11 of the Covenant, the Committee encourages the State party to prevent any occurrence of forced eviction. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.”).

¹⁰⁵ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing [hereafter General Comment 7], para. 9 (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003). *See generally* General Comment 7 for a detailed exposition of the duties of states under the right to housing with respect to the practice of forced eviction.

¹⁰⁶ Vienna Declaration, *supra* note 34, para. 31.

¹⁰⁷ Human Rights Council Resolution 6/27, “Adequate housing as a component of the right to an adequate standard of living,” para. 4(e).

¹⁰⁸ General Comment 16, Article 3, *supra* note 49, para. 18; *see also* the Vienna Declaration, *supra* note 34, para. 31.

¹⁰⁹ General Comment 16, Article 3, *supra* note 49, para. 18; *see, e.g.*, Commission on Human Settlements resolution 14/6, *supra* note 30, urging states to “repeal, reform or amend any existing legislation, policies, programmes or projects which . . . negatively affect the realization of the right” to housing.

¹¹⁰ General Comment 7, *supra* note 62, para. 11.

¹¹¹ *See, e.g.*, Fact Sheet 21, *supra* note 50.

¹¹² *See, e.g., id.*

earlier, the obligation to protect requires, especially, that the state guarantee: (14) access to remedies with respect to violations by the state or by third parties of (1) legal security of tenure; (9) freedom from dispossession, damage, and destruction; (12) resettlement, restitution, compensation, non-refoulement and return; (13) privacy and security; and (16) freedom from violence against women.¹¹³

Thus, a major component of the obligation to protect is the creation and enforcement of laws that protect all aspects of the right to housing.¹¹⁴ The state must provide to all persons, and enforce, “a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”¹¹⁵ Such security must extend to all forms of tenure, “including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property.”¹¹⁶ The State must “ensure that the law is enforced against its agents or third parties” who carry out forced evictions,¹¹⁷ by providing “legal protection and redress for such forced evictions.”¹¹⁸

The obligation to protect is especially crucial for groups that face systematic discrimination. States must “counter social and exclusions and marginalization of people and communities” by enforcing laws designed to combat discrimination, and by ensuring that “where evictions do occur, . . . no forms of discrimination are involved.”¹¹⁹ Moreover, the state must adopt legislation and administrative measures and establish public institutions and agencies programs that aim to eliminate discrimination by the state or by third parties in the area of housing.¹²⁰ The obligation to protect the equal rights of men and women to the enjoyment of the right to adequate housing also requires states to, for example, “provide victims of domestic

¹¹³ See General Comment 4, *supra* note 6, para. 8, for factor (1); Special Rapporteur, “Women and Adequate Housing,” *supra* note 33, para. 11 for factors (9), (12), (13), (14) and (16).

¹¹⁴ General Comment 7, *supra* note 62, para 10. Such legislation should “(a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) [be] designed to control strictly the circumstances under which evictions may be carried out. . . . States Parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies.” *Id.*

¹¹⁵ General Comment 4, *supra* note 6, para. 8(a).

¹¹⁶ *Id.*

¹¹⁷ General Comment 7, *supra* note 62, para. 9.

¹¹⁸ Human Rights Council Resolution 6/27, *supra* note 64, para. 4(c). General Comment 4, *supra* note 6, para. 17, provides some guidelines for the establishment of domestic legal remedies, including “(a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.”

¹¹⁹ General Comment 7, *supra* note 62, para. 11; see, e.g., General Comment 16, Article 3, *supra* note 49, para. 20: “States parties have an obligation to monitor and regulate the conduct of non-state actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights. This obligation applies, for example, in cases where public services have been partially or fully privatized.”

¹²⁰ See General Comment 16, Article 3, *supra* note 49, para. 19.

violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage.”¹²¹

The obligation to protect also extends to legislative measures to control housing-related costs. It requires that “[a] system of housing subsidies should be established for sectors of society unable to afford adequate housing, as well as for the protection of tenants against unreasonable or sporadic rent increases.”¹²²

4. Fulfilling

The obligation to fulfill the right of all individuals to adequate housing overlaps with, but extends beyond, the obligations to respect and to protect. It is “both positive and interventionary,” and includes “issues of public expenditure, government regulation of the economy and land market, the provision of public services and related infrastructure, the redistribution of income . . . [and] access to land as an entitlement,” all with a view to secure “the right of all persons to live in peace and dignity.”¹²³ Thus, out of the sixteen elements of the right to adequate housing, the obligation to fulfill especially requires states to ensure the presence of (2) available services, materials, facilities and infrastructure; (3) affordability; (4) habitability; (5) accessibility; (6) location; (7) cultural adequacy; (8) access to land, water and other natural resources; (10) access to information; (13) privacy and security; and (15) education and empowerment in housing.¹²⁴

To adequately meet the obligation to fulfill, states must ensure the equal and non-discriminatory provision of all of the foregoing components of the right to adequate housing by taking steps to ensure that in practice, *all* “men and women enjoy their economic, social and cultural rights on a basis of equality.”¹²⁵ These steps may include: ensuring that remedies and venues for redress for discrimination are available in practice to all, “including the poorest and most disadvantaged and marginalized men and women;” using “monitoring mechanism[s]” to ensure that laws formulated in order to protect the right to adequate housing do not have “unintended adverse effects;” adopting “temporary special measures” to accelerate the equal enjoyment by all of the right to adequate housing, including, in the context of women, “gender audits, and gender-specific allocation of resources;” and creating training and education programs on the right to adequate housing for judges, public officials, and workers, and integrating the right and the principle of equal treatment in schools.”¹²⁶

¹²¹ Special Rapporteur, “Women and Adequate Housing,” *supra* note 33, para 14; *see also* ESCR “Concluding Observations: Jordan,” *supra* note 55, paras. 28-30 for specific measures to be taken by Jordan in order to satisfy the obligation to protect the right to adequate housing.

¹²² Fact Sheet 21, *supra* note 50.

¹²³ *Id.* “As proclaimed in the Limburg Principles on the Implementation of the Covenant on Economic, Social and Cultural Rights, and reiterated subsequently by the Committee, due priority shall be given, in the use of all available resources, to the realization of rights recognized in the Covenant, mindful of the need to assure to everyone the satisfaction of subsistence requirements, as well as the provision of essential services.” *Id.*

¹²⁴ Of the 16 components to adequate housing, *see* General Comment 4, *supra* note 6, para. 8, for factors (2), (3), (4), (5), (6) and (7); Special Rapporteur, “Women and Adequate Housing,” *supra* note 33, para. 11 for factors (8), (10), (13) and (15).

¹²⁵ Special Rapporteur, “Women and adequate housing,” *supra* note 33, para. 21.

¹²⁶ *Id.*

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As applied to Jordan, the Committee on ESCR has indicated, with respect to the obligation to fulfill, that Jordan should distribute existing resources equitably to “reach the most vulnerable groups,” by “ensur[ing] adequate resource distribution at the national and local levels.”¹²⁷ The Committee on the Rights of the Child has recommended that Jordan “strengthen its efforts to improve the living conditions of refugee children living in the camps by paying special attention to the improvement of housing conditions.”¹²⁸

V. Conclusion

Jordan is obligated by international law to realize the fundamental human right to adequate housing by recognizing, respecting, protecting, and fulfilling all components of that right. The right to adequate housing must be interpreted broadly to encompass the right to live in dignity, and must be recognized as indivisible from and interconnected with all other basic human rights. Moreover, Jordan must ensure that the human right to adequate housing is realized equally for all individuals, and must take special measures to ensure the right to those individuals and groups who are marginalized or vulnerable on account of their race, ethnicity, color, sex, religion, class, economic status, or social status.

¹²⁷ ESCR “Concluding Observations: Jordan,” supra note 55, para. 27.

¹²⁸ Committee on the Rights of the Child, “Concluding observations: Jordan,” para. 84, CRC/C/JOR/CO/3 (29 September 2006).