

**End of Mission Statement to Republic of Korea**[Korean version](#)**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
Ms. Leilani Farha****23 May 2018**

I have spent the last nine days visiting the Republic of Korea at the invitation of the government to look at the extent to which people, particularly vulnerable groups, are enjoying the right to housing and non-discrimination in that context. I spoke with many senior level government officials, Ministers, judges, lawyers, civil society representatives as well as many residents living in various degrees of inadequate housing and homelessness. I am grateful to the Government and the local governments of Seoul and Busan who warmly greeted me and made considerable efforts to ensure I was provided with substantial and relevant information. I am also indebted to the many kind people who shared their lived experiences with me.

My statement today constitutes initial impressions and recommendations, which I hope will contribute to an ongoing constructive dialogue regarding the implementation of the right to adequate housing in Korea. My final report, which will be presented to the Human Rights Council at its 40th session in March 2019, in Geneva, will provide more depth to the issues I speak of today as well as a broader range of issues.

In the past 50 years South Korea has experienced huge economic growth having gone from being a developing country, to now being the 11th largest economy in the world. Korea is one of the only countries within the OECD to have changed its status from recipient of overseas development aid to being a significant donor.

Korea has made many efforts towards the implementation of the right to adequate housing. There has been a marked increase, for example, of the average number of households with piped water, an important aspect of the right to adequate housing – from just 56 percent in 1980 to almost 98 percent in 2010, and those equipped with a modern toilet moving from 18.4 percent to 97 percent in the same time frame. As of 2016, Korea has a public rental housing stock of 1.36 million units. 56.8 percent of all people live in a self-owned homes, while the home ownership rate reached 62.2 percent, as many residents have a house in which they do not live themselves. This suggests a sizeable percentage of the population has secure tenure, a cornerstone of the right to adequate housing.

It was refreshing to engage in conversation with judges as well as national and city level governments as there is both a stated commitment to implementing housing as a human right, rather than as a commodity, and some understanding of the meaning and application of the right as defined under international human rights law. For example:

- Supreme Court Judges noted the close association between the right to life and the right to live in dignity with the right to adequate housing.
- The Government of Korea's National Action Plan on Human Rights, in its second iteration, references the right to adequate housing, and mentions several measures to abolish discrimination in accessing social security benefits for certain vulnerable groups. The Government is currently in the process to develop in consultation with civil society the third National Action Plan.
- National level government has introduced new legislation to cool residential real estate speculation in problematic areas such as in parts of Busan and Seoul.
- The new [Framework Act on Residence](#) (2015) articulates that "people have the right to live in a decent residential life in a pleasant and stable dwelling environment, protected against any physical or social danger ..." It further specifies that people's housing expenses shall be maintained at affordable levels through housing supply and subsidization of housing expenses according to income levels, and life cycle; and that housing standards for low-income and other disadvantaged groups shall be elevated by giving them priority over supply and expense subsidization. In addition, it specifies that support shall be provided to ensure that the housing needs of persons with disabilities, older persons, and other housing-disadvantaged persons are accommodated.
- The city of Seoul has adopted a Human Rights Governance approach to city administration. The city has also adopted innovative human rights protections for Seoul citizens including a Committee Against Human Rights Violations, and a Citizens Jury to hear systemic cases of rights violations.

Areas of Concern

Despite these commitments and positive initiatives, there are a number of areas of concern that I would like to raise.

To begin, while there are many housing related policies and programs, it is difficult to determine how they interact, and whether taken together they will lead to the effective realization of [Sustainable Development Goal 11](#) and Target 11.1 and commitments made through the New Urban Agenda. **In this regard, I recommend the development of a human rights based national housing strategy which incorporates the 10 principles contained in my latest report to the UN Human Rights Council.**

1. Homelessness

According to Article 2 of Korea's [Homeless Act](#), homeless persons are those who have lived without a permanent abode or who have used a facility for homeless people for a substantial period; and persons who live in a place with substantially low habitability. Despite this inclusive definition, statistics gathered by the Ministry of Health and Welfare of numbers of homeless are only of those living either on the streets or in institutional settings for homeless people and amount to 12,000 people.

Using the definition provided in the Homeless Act and international human rights law standards, this number soars to 262,000 homeless people, with 113,000 persons living in makeshift dwellings whether vinyl homes, shacks or huts and 137,000 residing in goshiwon, jjokbang, containers and the like.

I spoke with a number of homeless persons living in and around Seoul station. Each of them articulated, in different ways, that they had experienced discrimination, stigmatization, and deep shame as a result of their housing status. Though homelessness is generally not criminalized in South Korea and the national police have adopted a community policing approach, homeless people at railway stations have been subject to move-along policies implemented by private security personnel

hired by Korail and other private companies. I welcome that Korail has started to offer part time employment to homeless persons at Seoul Station to assist their reintegration and is currently considering expanding this programme to other railway stations.

I was told by the Ministry of Land, Infrastructure, and Transport as well homeless persons themselves, that without a fixed address, access to the subsistence allowance and housing subsidy is denied. This of course makes it very difficult for rough sleepers to improve their living and housing conditions.

Korea must develop a strategy to prevent, address and end homelessness (as defined by the Homelessness Act), by 2030 in keeping with the Sustainable Development Goals.

Korea must ensure access to social subsistence allowance and the housing benefit for all persons who have no fixed address.

The Government must prevent any discrimination or violence against homeless persons and ensure that private security personnel act in a manner that is consistent with a community policing approach toward persons living in homelessness.

2. Vulnerable Groups

The government has recognized that a number of groups require specific programmatic measures in order to ensure they can enjoy the right to adequate housing, including young adults, single parent households, older persons, people who are homeless and newlyweds. Some groups, however, are excluded from human rights protections, particularly with respect to housing.

There seems to be a particular resistance to including LGBTI in references to human rights protections and related policies in Korea. I heard reports that LGBTI suffer widespread discrimination in daily life. It appears that discriminatory and hostile attitudes permeate the legal, social and political culture in Korea. It is well understood that LGBTI – particularly youth – are one of the fastest growing homeless populations worldwide. Suffering discrimination and often abuse at the hands of parents, relatives, and their local communities, many young LGBTI are forced to leave home. Once on their own, I was told that LGBTI in Korea are often denied access to institutions for homeless persons, and landlords in the private rental market often refuse to provide them with rental accommodation. Homeless people, including LGBTI rendered homeless are particular vulnerable to sexual trafficking of persons.

In addition, neither the Korean law relating to inheritance of property nor the national tenant law provides security of tenure for partners of LGBTI that have shared a home, in case of death of one of the two partners. **The exclusion of LGBTI from human rights protections and social benefits must be remedied immediately for South Korea to comply with its international human rights obligations.**

Migrants – including migrant workers – constitute one of the most vulnerable populations in Korea made worse by the denial of access to publically funded social benefits including the housing benefit and public rental housing. Exceptions are made where migrants are married to a Korean national, though the benefit can be withdrawn upon marriage dissolution. **Considering the increasing number of migrants, the government should consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The general exclusion of foreign nationals residing in Korea from housing benefits, public housing and basic social assistance is a prima facie violation of Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights and needs to be ended as soon as possible.**

More than 30,000 persons with disabilities are currently living in institutions in Korea and more than 78,000 people with mental disabilities are living in psychiatric hospitals. With the exception of the Metropolitan government of Seoul's efforts, there appear to be no plans for de-institutionalization at national level despite Korea's 2016 ratification of the Convention on the Rights of Persons with Disabilities at the end of 2016. **I urge the Government of Korea to provide adequate housing and social support to persons with disability to ensure that they can reside with their families or enjoy independent living in their communities.**

3. Urban redevelopment and reconstruction

Until recently the dominant approach towards urban redevelopment and reconstruction was to declare an entire neighbourhood as dilapidated, and then demolish all buildings in the area in order to build new large residential apartment complexes with improved standards. While this policy improves the supply and quality of housing, it has not been undertaken in compliance with human rights standards and has destroyed communities and neighbourhoods.

I welcome the paradigm shift the Government is initiating, moving away from large scale destruction and reconstruction towards small scale urban renewal projects to minimize involuntary displacement and improve living conditions in communities in consultation with residents.

However, it appears to me that the dominant policy of destruction and rebuilding of entire commercial and residential areas, is still in practice. For example, as of April 2018 the City of Busan had completed just 49 of 220 planned redevelopment and reconstruction projects, many of which are still ongoing and a further 50 are planned. I hope that these planned or ongoing large-scale redevelopment projects could in consultation with affected communities be reconsidered and implemented in a different manner fully complying with the international human rights standards, reflecting the ambition of the local government to move away from the past dominant approach.

The Act regulating urban reconstructions and redevelopment, requires the consent of at least 75 per cent of all homeowners in a zone for reconstruction, and allows them priority access to new housing units built in these areas. However, I have observed that many people living in these areas do not have sufficient protections. Tenants are not adequately consulted by the government or by landlords and some argue that compensation schemes are insufficient to secure a new home. I have also heard disturbing reports of violence and intimidation by the developers without adequate intervention from public authorities to protect residents. Some individuals expressed to me that they feel helpless and voiceless, with no choice but to remain in their homes as a form of protest against the impending eviction and demolition.

I am concerned that the current legal framework for redevelopment and reconstruction fails to comply fully with the right to adequate housing and the Basic Principles and Guidelines on Development-Based Evictions and Displacement (A/HRC/4/18) and General Comment No. 7 adopted by the UN Committee on Economic, Social and Cultural Rights (E/1998/22). These human rights standards require that States explore every alternative to displacement; consultation and participation of all residents in the planning and implementation of urban renewal plans regardless of their housing status as owners or rent payers; that no individual should be rendered homeless or vulnerable as a consequence of redevelopment and reconstruction projects; alternative housing is provided that meets all adequacy standards, including affordability; and residents must have access to legal remedies to the eviction.

I note that recently, the Economic Development Fund of Korea and the Korea Exim Bank adopted a safeguards policy which includes improved regulations for involuntary resettlement. I very much welcome the adoption of these safeguards. It is, however, perplexing that standards to protect affected communities and individuals in development projects implemented abroad appear to be stronger and more in line with international human rights standards than those at home. In my view, what can be done for projects abroad to the benefit of people in foreign countries, can and should also be done at home to the benefit of all people residing in Korea.

I therefore urge the Korean Government to bring its policies and the legal framework governing reconstruction and redevelopment of urban areas into full compliance with the Basic Principles and Guidelines on Development Based Evictions and Displacement and General Comment No. 7 on the right to adequate housing. This is of urgency as forced evictions are considered a serious violation of international human rights law.

4. Housing Affordability and Housing Quality

The lack of affordable housing is a substantial barrier to adequate housing particularly for those in the lowest income groups which includes young people, older people, singles, persons with disabilities, and others. According to Korea Household Survey Data the low-income households (bottom 20%) tend to spend 50% of their income on rent, which leaves scant resources available to pay for utilities, food, medicines, or other basic needs, let alone for any even modest comforts. The rent to income ratio for young tenants under the age of 35 is also high and has remained during the last decade at around 50 percent.

I met a number of residents in receipt of livelihood and housing benefits administered by the Ministries of Health and Welfare and Ministry of Land, Infrastructure and Transport respectively. Many recipients have reported that the housing benefit is insufficient to cover actual housing costs and thus they must dip into their livelihood benefit to pay their rent. Some residents are paying more than \$250USD/month on rent for some of the smallest units with the most squalid conditions in Korea, which on a per square metre basis renders them exceptionally expensive.

It is generally understood by government officials that the goshiwon (student accommodation), jukbang (very small rooms of a size of usually 3.5 to 5 qm), vinyl and greenhouses, tents, inns, and foreign worker dormitories do not meet adequate housing standards under international human rights law. Many of these homes are simply too small resulting in overcrowding even where there are only one or two residents, many have non-flushing toilets, or toilet facilities are outside of the home and result in safety hazards for women. These types of homes are prone to flooding, fire incidents, and are not well equipped for inclement weather.

The government should consider raising the housing benefit to levels that are commensurate with average rents and indexed to inflation.

The government should develop a strategy for improving the quality of the goshiwon and jukbang houses and must ensure all those living in insecure homes such as vinyl tents are provided with proper long-term housing, in consultation with residents themselves.

5. Security of Tenure

Security of tenure in Korea is only truly guaranteed for the homeowner. Under the Housing Lease Protection Act, lease terms are fixed at minimum two years. Once the lease expires, the tenant does not have a right to renewal and the landlord can increase the rent on a subsequent lease to unaffordable rates for the existing tenant. The tenant is thus left to either accept the increase or find another home. On average all tenants who have rented their homes by paying a large lump sum deposit have remained only 3.6 years in their homes. During my visit a man reported to me that he and his family had to move 16 times in the last 20 years, as the cost for renewal of his existing rent contract exceeded his financial means. This causes a great deal of instability, particularly for school-aged children and in terms of employment.

The most common rental regime in South Korea is known as Chonseil, and unique to the country. In this regime, a tenant is required to pay a large lump sum deposit - 50 to 70 percent of the total housing price - which the landlord then invests. The return on the landlord's investment is in lieu of monthly rental payments. Upon termination of the lease, the tenant receives back their lump sum deposit. Chonseil is seen as a step towards homeownership and serves as a savings scheme, and assisted in the rapid development of Korea. It provided the government liquid capital for development and financing at a time where banking institutions were experiencing great instability. The high interest rates of the 80s and 90s assured the landlords sufficient returns through the monthly interests.

The Chonseil system has remained popular because housing costs for apartments rented through Chonseil are on average lower than for similar housing rented on a monthly basis. However, the initial capital needed for the lump-sum deposit creates a barrier for accessing housing, particularly for the young population and vulnerable groups like single-parent and low income households. If you do not have the funds in savings, if you are not eligible for a loan, or if your family cannot provide you with the funds for the deposit, you can only rent housing on the monthly rental market, which is more expensive and provides even less protection for tenants.

According to the Seoul Institute, 80% of young people in the rental market reside in Chonseil or monthly rent units, while 43% of them resided in tenancies of two years or less. The lack of security of tenure along with the failure to put more stringent caps on rent increases year over year means that borrowers often must continue to borrow more funds every two years.

The need for loans due to the unaffordability and inaccessibility of the Chonseil system presents a contributing factor to the average rate of household debt in Korea, which is higher than any OECD country at 163% of net disposable income.

The Government has attempted to address some of these issues by, for example, developing a public loan scheme. In December 2017, the government also passed the Rental Housing Registration Plan. Through tax benefits, the government hopes that multi-unit homeowners will volunteer to register their houses as private rental homes. Tenants of those registered rental homes will benefit from a limit on the rate of rental increase and will gain a right of renewal for the duration of 4 years or 8 years depending on the registration period chosen by the homeowner. Currently, 18% of multi-unit homeowners have registered for this Plan. If the number of housing units registered are not significantly increased, the lack of security of tenure will remain owing to the short duration of the rental terms..

The Government should take steps towards increasing security of tenure by guaranteeing the renter's right of lease renewal while implementing a ceiling on rental increases, as recommended by the Guiding principles on security of tenure for the urban poor ([A/HRC/25/54](#)).

As a first incremental step towards ensuring security of tenure, the government should make the registration in the Rental Housing Registration Plan obligatory for multi-unit homeowners.

6. Human rights due diligence of financial actors in real estate

Korea is home to some of the world's largest pension funds, including the National Pension Service (NPS) which is the third largest in the world, valued at \$596 billion USD. In the last 10 years, the NPS has been increasingly investing in residential real estate overseas to diversify its portfolio, lower its exposure to risk and ensure it can perform adequately to meet the needs of its beneficiaries.

I welcome that the NPS subscribed in 2009 to the Principles for Responsible Investment promoted by the UNEP Finance Initiative. While residential real estate investment comprises only a small proportion of its overall investments NPS has also invested in multi-family residential complexes through joint ventures with investment firms in the United States. The current revision of investment guidelines of the NPS provides an opportunity to include human rights considerations into the investment policy of the pension fund.

I would like to encourage the National Pension fund, institutional and private investors in Korea to exercise human rights due diligence in relation to its investment portfolio as recommended by the Guiding Principles on Business and Human Rights ([A/HRC/17/31](#)) and incorporate them into their investment guidelines. This should include not only an assessment as to whether its investments at home or abroad may directly or indirectly contribute to human rights violations, including forced evictions, but as well to assess whether their investments in real estate may cause other adverse effects on the right to adequate housing, such as contributing to the reduction of social housing stock by private acquisitions, or gentrification resulting in a significant reduction of the affordable housing stock.

Information about the visit

At the invitation of the Government of Korea, 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 regard, Ms Leilani Farha, visited the country from 14 – 23 May 2018. She is grateful for the high level of cooperation she has received from the National Government, as well as from Municipalities with whom she met. She also commends the various authorities for their engagement, interest and for sharing ample information, translating much of into English. The Special Rapporteur also wishes to thank the contributions, testimonies and insights from civil society and community-based organizations, as well as from lawyers and academics and individual residents.

The Special Rapporteur wishes to thank her team, including the interpreters, for their valuable support throughout the visit.

1/ See <https://www.humanrights.go.kr/site/homepage/menu/viewMenu?menuid=002006002>

2/ See Seoul Metropolitan Government, Introduction to Seoul Human Rights Governance, 2017.

3/ See [A/HRC/37/53](#).

4/ See as well my thematic report on homelessness and human rights, [A/HRC/31/54](#) from 30 December 2015.

5/ Act on the maintenance and improvement of urban areas and dwelling conditions for residents, Act No.6852 from 2002.

6/ See Basic Principles and Guidelines on Development Based Evictions and Displacement, para. 59-68.

7/ Article 4 (Term of Lease), Article 6 (Renewal of Contract)

8/ http://global.si.re.kr/sites/default/files/file/영문판_서울통계연구_04%20Housing.pdf

9/ IMF Country Report No. 16/278, p.9 at <http://www.imf.org/external/pubs/ft/scr/2016/cr16278.pdf>

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