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## مجلس حقوق الإنسان

الدورة الحادية والثلاثون

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بالسكن اللائق كعنصر من عناصر الحق في مستوى معيشي مناسب وبالحق في عدم التمييز في هذا السياق، عن بعثتها إلى كابو فيردى

## مذكرة من الأمانة

تشرف الأمانة بأن تحيل إلى مجلس حقوق الإنسان تقرير المقررة الخاصة المعنية بالسكن اللائق كعنصر من عناصر الحق في مستوى معيشي مناسب وبالحق في عدم التمييز في هذا السياق، ليلاني فرحة، عن البعثة التي قامت بها إلى كابو فيردى في الفترة من ١٩ إلى ٢٦ كانون الثاني/يناير ٢٠١٥. وتعرض المقررة الخاصة في التقرير استنتاجاتها فيما يتعلق بالوضع الراهن في قطاع الإسكان والسياسات المتبعة والبرامج المقررة في هذا المجال، وتناقش وضع الأشخاص الذين يعيشون حالة من الضعف فيما يتعلق بالتمتع بحقوقهم في السكن. وتقدم استنتاجات وتوصيات إلى الحكومة الوطنية والسلطات المعنية وسائر الجهات الفاعلة المعنية.



## **Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on her mission to Cabo Verde\***

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\* Circulated in the language of submission and French only.

## I. Introduction

1. At the invitation of the Government, 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, undertook an official visit to Cabo Verde from 19 to 26 January 2015. The Special Rapporteur is grateful to the Government for the invitation and support and is committed to continuing the dialogue initiated by her visit.

2. Appointed by the Human Rights Council pursuant to resolutions 15/8 and 25/17, the Special Rapporteur has a mandate to examine and report back on the country situation and the level of realization of the right to housing. The main objective for this visit was to examine the laws, policies and programmes aimed at promoting and protecting the right to adequate housing, including as related to the principle of non-discrimination. The Special Rapporteur was honoured to be the first special procedure mandate holder to undertake an official visit to Cabo Verde.

3. The Special Rapporteur visited the islands of Santiago, Sal and Saõ Vicente, including the cities of Praia, Santa Catarina and Mindelo, and some rural areas. She met with the Minister of the Environment, Housing and Spatial Planning, the Minister of Justice, the Director General of the Ministry of Foreign Affairs and several officials from local authorities, including the Mayor of Sal and some representatives from his office, as well as some council members in Praia and Mindelo. She had the opportunity to discuss with the Ombudsperson and the President of the National Commission for Human Rights and Citizenship and her team. She met with representatives of civil society and community-based organizations, the international community and United Nations officials. She also visited residents in urban and rural areas and heard their testimonies. The Special Rapporteur is thankful for the support provided by the United Nations country team.

## II. General overview of the country

4. Cabo Verde is situated in the tropical north of the Atlantic Ocean, about 500 kilometres from the West African Coast. The territory of Cabo Verde is divided into 10 islands (9 inhabited) and organized in 22 municipalities. According to the latest census of 2010, the country has a population of 491,683.<sup>1</sup> The population is young, with 54 per cent under the age of 25<sup>2</sup> and an average of 4.2 members per family. Over the centuries, Cabo Verdeans have emigrated for a number of reasons, including in search of better living conditions. According to the International Organization for Migration, around 700,000 Cabo Verdeans are living abroad, mainly in the United States of America (260,000) and in Europe, particularly in Portugal (100,000), representing more than the entire domestic population.<sup>3</sup>

5. Cabo Verde is a young democracy, having proclaimed its independence from Portugal only 40 years ago, on 5 July 1975. In 1991, the country began reforming its national political life, having held the first multiparty elections and establishing a parliamentary democracy. In such a short time, it has achieved considerable progress, for example, life expectancy at birth

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<sup>1</sup> See National Institute of Statistics, 2010 census, "População Residente por Concelho segundo o Sexo e Meio de Residência". Available from [www.ine.cv](http://www.ine.cv).

<sup>2</sup> See United Nations Development Assistance Framework for Cabo Verde, 2012-2016.

<sup>3</sup> See International Organization for Migration (IOM), "General information". Available at [www.iom.int/countries/cape-verde/general-information](http://www.iom.int/countries/cape-verde/general-information).

is 74.9 years (2013) up from 60.2 in 1980; universal access to basic education moved from 71.5 per cent in 1990 to 92.8 per cent in 2013; and in 2008 it graduated from least developed country<sup>4</sup> with a gross domestic product of US\$ 1.5 billion for 2007.<sup>5</sup>

6. The key sources of revenue are commerce and tourism. Remittances from Cabo Verdeans residing abroad are also crucial, and were estimated at US\$ 189 million for 2014.<sup>6</sup> Since the country's economy is dependent on tourism and foreign investment, the global financial crisis had a direct impact on its revenue, leaving many low-income workers, such as in the tourism and construction sectors, unemployed and reducing income from remittances.

7. Despite a substantial reduction in poverty rates over time, from 49 per cent in 1990 to approximately 25 per cent in 2007,<sup>7</sup> poverty and inequality remain prevalent. Of those living in poverty in 2007, around 72 per cent lived in rural areas, 56 per cent were women and 95 per cent had little to no education. There were also significant disparities in terms of poverty rates across different municipalities.<sup>8</sup> Since 2010, the unemployment rate has increased to 15.8 per cent in 2014.<sup>9</sup> Youth employment is a serious concern reaching more than double the national average at 35.8 per cent in 2014.<sup>10</sup>

8. Cabo Verde is one of the lower middle income countries in the region. It should be noted that it was one of the few African countries on track to meet several of the Millennium Development Goals. According to the 2015 official report on the Millennium Development Goals, Cabo Verde met several of the Goals, in particular in relation to poverty reduction, access to basic education and reduction of maternal and child mortality. It also made substantive progress in gender equality and in ensuring access to improved water facilities.<sup>11</sup>

9. The Special Rapporteur was made aware that the change from least developed country to middle income country I was not always positive, given the consequent difficulties to access aid and loans from the international community, including financial institutions. Considering that the country does not have access to natural resources, its reliance on aid is central to its economy, leading to increased international financial obligations, including in the form of foreign debt.

<sup>4</sup> United Nations Children's Fund (UNICEF) and Cabo Verdean Institute for Children and Adolescents, "Análise de Situação da Criança e Adolescente em Cabo Verde" (2011), pp. 50-53.

<sup>5</sup> See World Bank Development Indicators. Available at <http://databank.worldbank.org/data/reports.aspx?source=2&country=CPV&series=&period=>.

<sup>6</sup> Ibid.

<sup>7</sup> Ministry of Finance and Planning, "Relatório ODM Cabo Verde 2015, Dados referentes ao ano de 2014" (Praia, 18 July 2015), p. 15.

<sup>8</sup> UNICEF and Cabo Verdean Institute for Children and Adolescents, "Análise de Situação", p. 13.

<sup>9</sup> See National Institute of Statistics, unemployment figures. Available at [www.ine.cv/desemprego/def.aspx?i=3](http://www.ine.cv/desemprego/def.aspx?i=3).

<sup>10</sup> See National Institute of Statistics, unemployment rate for young persons between 15 and 24 years of age. Available at [www.ine.cv/indicadores/outros.aspx?i=40](http://www.ine.cv/indicadores/outros.aspx?i=40).

<sup>11</sup> See Ministry of Finance and Planning, "Relatório ODM".

### III. The right to adequate housing: institutional and legal framework

#### A. International obligations

10. Cabo Verde is party to all international human rights treaties central to the right to housing and non-discrimination in this context. These include the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Covenant, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

11. At the regional level, Cabo Verde is a party to the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

12. As a result, Cabo Verde has a binding legal obligation to take concrete and deliberate steps to ensure the progressive realization of the right to adequate housing and to ensure the use of the maximum of its available resources. It also has the legal obligation to take immediate steps to combat discrimination on any grounds in order to ensure access to adequate housing, especially for those individuals and groups that are excluded or marginalized. Adequate housing is essential to the exercise of other human rights, too, such as education, health, work, freedom of assembly and expression and life.

13. Under international human rights law, the right to adequate housing should not be interpreted only as the right to a physical structure; rather, it should be seen as the right to live somewhere in security, peace and dignity.<sup>12</sup> Housing is adequate when the following criteria are met: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.<sup>13</sup> The enjoyment of the right to adequate housing should include sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.<sup>14</sup>

14. An important part of the country's international human rights obligations is to monitor its own compliance and to report regularly and systematically to the international treaty bodies. Unfortunately, the country's impressive record of ratification has not been matched with meeting its corresponding reporting obligations. For example, Cabo Verde has never submitted a report to the Committee on Economic, Social and Cultural Rights for consideration, as a result of which reports have been overdue since 1995.

15. The Committee on the Rights of the Child, in its concluding observations following its only review of Cabo Verde 15 years ago, raised concerns about the lack of systematic and

<sup>12</sup> See article 11 of the International Covenant on Economic, Social and Cultural Rights, and Committee on Economic, Social and Cultural Rights, general comment No. 4 (1992) on the right to adequate housing, para. 7.

<sup>13</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 8.

<sup>14</sup> *Ibid.*, para. 8 (b).

comprehensive collection of disaggregated data to assess progress and the impact of policies for children (see CRC/C/15/Add.168, para. 14). The Committee recommended providing assistance to families, ensuring the anti-poverty programme takes into consideration children's right to an adequate standard of living, and developing programmes of major improvements to the social security system, housing conditions of children, home sanitation facilities and access to clean drinking water (ibid., paras. 38 (b) and 48).

16. In 2013, the Committee on the Elimination of Discrimination against Women expressed concern that rural women faced many difficulties with regard to poverty, access to housing and to clean water and sanitation services (see CEDAW/C/CPV/CO/7-8, para. 30). The Committee was concerned that the absence of a land registration system prevented rural women from using ownership of land as a guarantee to gain access to financial credit.

## **B. Domestic legal and institutional frameworks**

17. The Constitution of Cabo Verde was adopted in 1992 and has been revised three times since then, most recently in 2010. It is a progressive instrument, which incorporates essential principles and rights. For instance, in article 17, provision is made for the interpretation of fundamental rights and freedoms in the light of the Universal Declaration of Human Rights (art. 25 on housing as part of the right to an adequate standard of living). Core principles of human rights are guaranteed, such as non-discrimination, equality before the law and access to justice.

18. Article 72 enshrines the right to housing and stipulates that the State has the obligation to achieve the right to housing by "gradually promoting, according to national economic development, adequate institutional, regulatory, and infrastructural conditions to encourage and support initiatives of local communities to stimulate private construction and access to proper housing".

19. The Constitution also incorporates the right to social security in case of unemployment, illness, disability, old age, being orphaned, and all situations of need or loss of subsistence or capacity to work (art. 70); the right to private property and inheritance, with the exception of expropriation for public use in accordance with law and subject to the payment of compensation (art. 69); the right to health (art. 71) and to a healthy and ecologically balanced environment (art. 73).

20. In Cabo Verde, the design and implementation of legislation, policies and programmes relevant to the housing sector involves collaboration between different levels of government and other actors, notably State-owned enterprises providing electricity, water and social housing. The Ministry of the Environment, Housing and Spatial Planning, works alongside the Ministry of Infrastructure and Transport and the Ministry of Finance and Development at the national level to coordinate different initiatives relevant to the housing sector. Enterprises such as Electra, the national electricity and water provider, or the national housing agency, Imobiliária, Fundiária e Habitat, responsible for "Casa para Todos"(Home for All) programme, are all important actors.

21. In addition, the municipalities have specific roles and responsibilities and are perceived as the main engine of development and participation of local communities. Decentralization started in 1991, with the transfer of the administration of programmes and policies to local governments in accordance with articles 7 and 230 to 239 of the Constitution. There is also a Framework Law on Decentralization<sup>15</sup> of August 2010, which establishes administrative

<sup>15</sup> Law 69/VII/2010.

decentralization and the rules on public-private partnerships at the regional, municipal and local levels and elaborates on some issues established by a previous 1995 Law on the Status of Municipalities.<sup>16</sup>

22. In 2013, a diagnosis of the decentralization process revealed that, while the Constitution and relevant legislation allow each municipality to adopt its own policies, municipalities do not always make full use of their powers and competences.<sup>17</sup> In other words, the degree of compliance of duties and municipal powers varies across each municipality.

23. In order to effectively implement international and domestic obligations with respect to the right to housing, responsibilities transferred to local governments must be accompanied by a concomitant transfer of resources, knowledge, capacity and accountability. The Special Rapporteur has developed a set of recommendations about the role of local governments with regard to the implementation of the right to housing, which is equally applicable to Cabo Verde (see A/HRC/28/62).

24. In terms of framework legislation with respect to housing, the obligations arising from a lease contract can be found in the 1997 Civil Code (arts. 1,022 to 1,120). In article 1,093, the few instances under which a landlord may be authorized to file an eviction request with the court and terminate a lease are outlined. These instances include the failure to pay the rent on time; the use of the property for purposes other than those contractually agreed; the recurrent use of the property for illegal or fraudulent purposes; unauthorized subletting; subletting at a higher price than that authorized by the landlord; vacancy of the property for one year; or the tenant having his/her main residence elsewhere. The Special Rapporteur did not receive information about the extent of evictions filed in accordance with the provisions of this Code.

25. The Civil Code also addresses the urban tenancy regime. On paper, it would seem that the tenancy regime and property law favour tenants. However, according to information and testimonies received, this is not always the case. The Special Rapporteur was informed that landlords and tenants seldom enter into formal written leasing agreements, a practice that can have serious consequences with respect to security of tenure.<sup>18</sup> For instance, the landlord is free to increase rent without regulation and can evict tenants without due process. Furthermore, in the absence of a written agreement, it would be nearly impossible for a tenant to assert his or her rights. In addition, the lack of a regulatory framework for private leasing can often facilitate tax evasion for failing to declare rental income, which in turn reduces the country's income.

### **C. Key housing policies and programmes**

26. The Government of Cabo Verde launched a national social protection strategy in 2005, aimed at reducing poverty and social inequality. In its Growth and Poverty Reduction Strategy Paper for the period 2008-2011, the Government proposed to move towards a coherent and universal social security and action system and social protection adapted to the new economic

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<sup>16</sup> Law 134/IV/1995.

<sup>17</sup> See Cabo Verde, Ministry of the Environment, Housing and Land, General Directorate of Decentralization and Local Administration, "Estudo sobre o processo de descentralização em Cabo Verde".

<sup>18</sup> For more information on guiding principles on security of tenure for the urban poor, see the report of the Special Rapporteur dated 30 December 2013 (A/HRC/25/54).

and social realities of the country. Between 2005 and 2010, social spending represented 13.3 per cent of the gross domestic product.<sup>19</sup>

27. In 2008, the Government identified a housing deficit of over 80,000 dwellings, both quantitative and qualitative.<sup>20</sup> In response to this deficit, a number of policies and programmes were developed, including the adoption of a national housing system in 2010. It is reported that at the national level, 21 per cent of all projects implemented in the social protection sphere in 2010 were housing related.<sup>21</sup> In spite of the resources dedicated to these programmes and initiatives in recent years, there remains a quantitative deficit of 40,776 units and a qualitative deficit of 66,013 units.<sup>22</sup>

28. The Special Rapporteur was very encouraged to learn that the Government had declared 2009 the Year of Housing, making housing a national priority. In 2010, the National Social Housing System was established, providing an overarching vision for public policy. This system includes the establishment of the National Fund for Affordable Housing, the Unified Housing Cadastre and the Housing Guarantee Fund.

29. Other decrees in the housing sector include the regulatory decree 9/2010, which defines and regulates the conditions under which social housing programmes function; legislative decree 11/2010, which approves fiscal incentives for the construction, remodelling and acquisition of homes; and Decree-Law 37/2010 and ordinance 63/2010, which regulate conditions to access housing credit.<sup>23</sup>

30. The largest nationwide social housing initiative, under the umbrella of the National Housing system, is known as the “Casa para Todos” programme. The entity responsible for the programme, Imobiliária Fundiária e Habitat, was established in 1982 as a housing development institution and is currently listed as a State-owned enterprise. The “Casa para Todos” programme was established in 2008 with the aim of building affordable housing units to be sold by the Government to private individuals. The beneficiaries of programme are divided into three categories, taking into account the need to prioritize those with lower incomes and facing specific barriers in accessing housing via the National Social Housing System.<sup>24</sup> The following categories were established: (a) households earning less than or equal to 40,000 escudos; (b) households earning between 40,000 escudos and 100,000 escudos (Class B); and (c) households earning between 100,000 and 180,000 escudos (Class C).<sup>25</sup> The programme was funded with a credit line of 200 million euros from the Government of Portugal with a co-financing of 10 per cent by the Government of Cabo Verde to be implemented over a five-year period.

<sup>19</sup> Fabio Durán Valverde, José Francisco Pacheco e Joana Borges Henriques, *A Proteção Social em Cabo Verde: situação e desafios*, (Geneva, International Labour Organization, 2012), figure 41 “Composição das Despesas Sociais em Cabo Verde, 2005 e 2010 (em % do PIB)”, p. 56. Available at [www.extensao-protecsocial.com/images/eps/ficheiros/SPER\\_CV\\_Situacao\\_Desafios\\_vfinal\\_2013\\_1\\_.pdf](http://www.extensao-protecsocial.com/images/eps/ficheiros/SPER_CV_Situacao_Desafios_vfinal_2013_1_.pdf).

<sup>20</sup> National Commission for Human Rights and Citizenship, “I Relatório Nacional de Direitos Humanos 2004-2010”, p. 86. Available at [www.portaldoconhecimento.gov.cv/bitstream/10961/1583/1/IRNDH.pdf](http://www.portaldoconhecimento.gov.cv/bitstream/10961/1583/1/IRNDH.pdf).

<sup>21</sup> Durán Valverde and others, “A Proteção Social em Cabo Verde”, table 20 “Composição das Despesas Sociais em Cabo Verde, 2005 e 2010 (em % do PIB)”, p. 62. Available at [www.extensao-protecsocial.com/images/eps/ficheiros/SPER\\_CV\\_](http://www.extensao-protecsocial.com/images/eps/ficheiros/SPER_CV_)

<sup>22</sup> Information on “Casa para Todos” from a presentation by the Ministry of the Environment, Housing and Spatial Planning.

<sup>23</sup> Durán Valverde and others, “A Proteção Social em Cabo Verde”, p. 189.

<sup>24</sup> The system is composed of the State, the Social Housing Fund and credit institutions interested in taking part in the programme, including offering credit lines, and the Commission for Coordination and Accreditation (Comissão de Coordenação e Credenciação).

<sup>25</sup> Approximately US\$ 40 for Class A; between US\$ 40-1,000 for Class B; and US\$ 1,000-1,800 for Class C.



31. “Casa para Todos” includes three distinct components entitled: “Habitar CV”, “Prohabitar” and “Reabilitar”; the most widely known is “Habitar CV”.

32. “Habitar CV” was originally designed to deliver 8,400 housing units in the form of high density, three- to five-storey condominiums, throughout the country, equalling 20 per cent of the quantitative housing deficit. However, the programme delivery target was reduced to 6,010 units owing to the reluctance of financial institutions to provide mortgages to low-income beneficiaries largely working in the informal sector, who were meant to be primary beneficiaries of the programme. Of those, 2,178 were designated for households in Class A, 2,519 units for Class B and 1,313 units for Class C.

33. “Reabilitar” aimed to rehabilitate approximately 16,000 houses across the country with a view to reducing the qualitative deficit by 20 per cent.<sup>26</sup> In other words, this part of the programme is intended to enhance existing housing units, including in informal settlements, mostly in relation to the actual structure of the house. According to information received by the Special Rapporteur, this programme was not intended to provide or enhance security of tenure. In addition, the Government has also implemented “Operation Esperança” through the Cabo Verde Solidarity Fund. Between 2005 and 2009, approximately 3,127 homes were rehabilitated or upgraded through “Operation Esperança”, benefiting around 18,205 individuals.<sup>27</sup> The objective of “Prohabitar” is the construction of 1,050 houses in rural settings, but little information was made available to the Special Rapporteur about this programme.

34. The Special Rapporteur commends the Government for this ambitious initiative and recognizes that the families who have already benefited from it found the opportunity to access a home of good quality essential for their lives. At the same time, various interlocutors expressed concern at the lack of accessibility and affordability of the new units to the lower income and most vulnerable populations. It was said that those most in need of adequate housing were the least likely to access the programme. Although the programme offers rent-gear-to-income units for the poorest households, it appears that only a handful of the units built have been awarded to households at the lowest end of the income spectrum (Class A), despite the fact that 75 per cent of applications for the programme come from this population group. This is partially due to a lack of guarantees in accessing the required credit or mortgages or a lack of compliance with requirements such as job stability or minimum income to qualify for the programme. In addition, even those with slightly higher or more stable incomes cannot afford the high costs of utilities, as discussed above, and condominium fees.

35. The Special Rapporteur was concerned about the centralized planning of the programme, particularly at the final stages, and its seeming lack of flexibility to adapt to local contexts and assessments that had been carried out by some municipalities. Although the municipalities were consulted in the initial phases of planning and had been participating in the programme’s implementation, for instance by allocating municipal land for construction, some claimed that they were no longer consulted and that communication with the Imobiliária, Fundiária e Habitat required improvement. Local government authorities also noted that greater recognition of their knowledge and their first-hand assessment of the housing needs and situation within their zones was missing.

<sup>26</sup> Information on “Casa para Todos” from a presentation by the Ministry of the Environment, Housing and Spatial Planning.

<sup>27</sup> See World Health Organization, African Health Observatory, “MDG Goal 7: Ensure environmental sustainability”. Available from [www.who.int/profiles\\_information/index.php/Cape\\_Verde:MDG\\_Goal\\_7:\\_Ensure\\_environmental\\_sustainability\\_-\\_Health-related\\_MDGs?lang=en](http://www.who.int/profiles_information/index.php/Cape_Verde:MDG_Goal_7:_Ensure_environmental_sustainability_-_Health-related_MDGs?lang=en).

36. Most of the units being built consist of three- or four-storey complexes. Some residents noted that this is incompatible with the housing culture in informal settlements and especially in rural settings, which tend to be more horizontal in structure. Rural residents are used to living in free-standing houses with gardens or orchards and chickens and goats on the land.

37. The financial viability and sustainability of the programme was also identified as an area of concern. The units for sale aimed at higher income earners (Class B and C), which are of higher quality, are not being purchased in the numbers required in order for the programme to break even financially. It was suggested that this low purchase rate might be attributable not only to financial constraints but also to stigma associated with living in “social housing”. Many expressed concern that the programme allocates too many resources to the building of new units to the detriment of alternatives that might be more cost-efficient and effective at ensuring adequate housing for a greater number of the poorest households, including more rehabilitation and development of infrastructure in existing neighbourhoods and settlements.

38. The Government of Cabo Verde, in partnership with the United Nations Human Settlements Programme (UN-Habitat) is also implementing the National Programme on Urban Development and Empowerment of Cities, within the new United Nations Development Assistance Framework for Cabo Verde, 2012-2016. The Programme aims to consolidate the activities initiated in previous years under the first phase of the Participatory Slum Upgrading Programme.

39. The Participatory Slum Upgrading Programme is aimed at providing a lasting reduction of intra-urban inequalities through the implementation of articulate, integrated, and participatory policy measures aimed at constantly improving the living conditions of urban residents. The Programme is an initiative of the Africa, Caribbean and Pacific Secretariat, funded by the European Commission and implemented by UN-Habitat. Launched in 2008, the overall objective of the Programme was to contribute to Millennium Development Goal 7, targets C and D, as well as the continuity and consolidation of local leadership and cities empowerment under the Urban Local Development Programme under the One United Nations initiative in Cabo Verde.<sup>28</sup>

## IV. The right to housing

### A. Overall conditions

40. Rapid urbanization in the main cities and towns, a lack of spatial planning and adequate zoning or servicing, compounded in some cases by a lack of effective implementation of existing plans, have placed serious pressure on the availability of adequate and affordable housing. In fact, urbanization has occurred mostly informally. Since the population and rural-to-urban migration continue to grow, housing needs are increasing in the main cities. Projects for 2015 indicate a population of 508,000, with 65 per cent living in urban centres and 45 per cent in the capital Praia.<sup>29</sup>

<sup>28</sup> See UN-Habitat, briefing note for ambassadors from the African, Caribbean and Pacific Group of States on the Programme in Cabo Verde.

<sup>29</sup> Information from the United Nations Population Division, 2012. See also [http://esa.un.org/unpd/wpp/publications/Files/WPP2012\\_Volume-II-Demographic-Profiles.pdf](http://esa.un.org/unpd/wpp/publications/Files/WPP2012_Volume-II-Demographic-Profiles.pdf).

41. The trend to move from rural areas to urban centres — towns and cities — has been as rapid in Cabo Verde as in many other countries of the global south. In 1990, only 44.1 per cent of the population lived in urban centres as opposed to 61.8 per cent in 2010.<sup>30</sup> The expansion of informal settlements has been fuelled by internal migration, particularly towards Santiago island and the touristic islands of Sal and Boa Vista, owing in part to periodic droughts and agricultural degradation in rural areas and in part to attractive job opportunities in the tourism sector.

42. The 2010 Population and Housing Census identified a total of 141,761 housing units, with over 117,000 registered households. Some information available estimated that 98.5 per cent of households in Cabo Verde were reportedly living in “classical” housing units, which include individual houses, while 1.4 per cent the households lived in “non-classical housing” units. For the purposes of the census, non-classical housing units include dwellings made from tents, containers, garages and factories, which are precarious in nature. A very small percentage of households registered as living in collective housing units.<sup>31</sup>

43. Home ownership is more prevalent in rural settings than in urban ones, where renting is more common. Most tenants spend on average around 10,000 escudos (approximately US\$ 100) per month on rent, although households in urban areas pay higher rental rates.<sup>32</sup>

44. According to information received at various meetings, there are several types of housing tenure status in Cabo Verde. A first type is private rental accommodation; a second type, and possibly the most common for the urban poor, is self-constructed housing units, built incrementally in informal settlements, often located on land that has not been serviced or included in the formal urban plans for the municipalities; a third type constitutes homes for middle to higher income households, although not all have permits or are made of high quality of materials, and they are usually freehold.

45. The location of housing is particularly important in cities and towns, as it defines access to employment opportunities, schools, medical centres, community life and relatives and friends. Keeping in mind both urbanization and the housing deficit, the likelihood of an increase in unplanned constructions that are not serviced, without secure tenure on land that is risk-prone (such as in steep places, with adverse topographic conditions, or in areas where flooding could occur) is high.

46. Some figures available at the municipal level confirm these concerns. For instance, in its 2015 budget, the Municipality of Sal allocated 1.2 million escudos to social housing; 3.5 million escudos to spatial planning, 6.2 million for basic sanitation, and approximately 162 million escudos for infrastructure and transport. The Municipality of Santa Cruz allocated 10 million escudos to urban requalification, 3 million to street and sidewalk repairs, 7 million to the construction and rehabilitation of houses and 7.5 million to improve management of territory, land and cadastres.

47. Tourism is an essential source of revenue for the country and its impact on housing should also be addressed from a human rights perspective. The Special Rapporteur noted that agreements with international tourism enterprises did not always give due consideration to the need to ensure the provision of adequate housing for temporary or seasonal workers in coordination with local authorities; financial and technical participation in the development of housing, infrastructure and services for the existing local community; quotas for employment of

<sup>30</sup> See National Institute of Statistics, “Evolução do População residente urbana por Ilha e Concelho, segundo os censos de 1990-2010”. Available at [www.ine.cv/actualise/dadostat/files/213b4eda-e5eb-4f23-a2af-9a3f0a413631evolu%C3%A7%C3%A3o%20do%20popula%C3%A7%C3%A3o%20residente%20urbana,%201990%20-%202010.pdf](http://www.ine.cv/actualise/dadostat/files/213b4eda-e5eb-4f23-a2af-9a3f0a413631evolu%C3%A7%C3%A3o%20do%20popula%C3%A7%C3%A3o%20residente%20urbana,%201990%20-%202010.pdf).

<sup>31</sup> National Institute of Statistics, 2010 census, “Resumo dos principais resultados por meio de residência e concelho”, p. 15. Available at [www.ine.cv/censo/files/Resumo%20indicadores%20RGPH%202010.pdf](http://www.ine.cv/censo/files/Resumo%20indicadores%20RGPH%202010.pdf).

<sup>32</sup> See National Institute of Statistics, 2010 census, “Características dos alojamentos”. Available at <http://www.ine.cv/actualise/destaques/files/f1696bd3-8ef5-4f1f-92b2-d4ff79def106INE-Censo2010-HabitacaoArtigo.pdf>.

local residents to ensure their income for housing and utilities; and mechanisms to ensure rent control and safeguards to prevent tourism from leading to hikes in prices for local residents, rendering their access to housing unaffordable.

48. The Special Rapporteur is concerned that municipalities do not have the resources necessary to implement the housing initiatives that they have designed and that central housing programmes do not always respond to local housing deficiencies or priorities.

## **B. Informal settlements and the right to housing**

49. The expression “informal settlements” usually refers to self-made, spontaneous, self-managed and unplanned settlement and housing arrangements, short or long-term, initiated by urban poor themselves. They are generally characterized by precarious infrastructure, lack of consistent and reliable services and incremental betterment of the housing and living conditions. Individuals living in informal settlements often lack security of tenure and are commonly at high risk of forced eviction (see A/HRC/22/46, para. 29). In some cases, those living in informal settlements are not included in data collection or in public policy design and implementation, including with respect to essential services such as access to schools, public transportation, roads, piped water services, sewage or garbage collection.

50. According to the Committee on Economic, Social and Cultural Rights, “forced evictions” include the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without access to appropriate forms of legal or other protection. Security of tenure should be guaranteed to all, including persons living in informal settlements, to ensure legal protection against forced eviction, harassment and other threats.<sup>33</sup>

51. The Special Rapporteur met with many residents living in informal settlements on the islands she visited. A complex web of tenure arrangements exists in these neighbourhoods, including informal rentals, occupation and conflicting or overlapping land titles, as well as “clandestine” constructions and homes made from tin. Parts of settlements have been urbanized or are now covered by municipal services, such as garbage collection or the provision of public water taps.

52. In general, the living conditions in the informal settlements that the Special Rapporteur visited were deplorable. Testimonies and discussion in various meetings noted that similar inadequate conditions were common in other settlements. Many of the houses were built by residents themselves incrementally, without proper skills or sufficient materials as a result of a lack of resources due to fluctuating incomes or only being able to obtain temporary work. Residents underlined that it was usual for people to move into these half-finished homes as soon as feasible. Residents talked about roofs collapsing and rain and dust seeping into the home as a daily reality.

53. Many homes are built in precarious locations, on steep hillsides, are overcrowded and lack kitchen and sanitation facilities, electricity and potable water. Residents are required to rely on public taps — which are often at some distance from the community or not regularly maintained — or unreliable water trucks. Moreover, water is expensive, with the poorest paying some of the highest rates because water rates only decrease as volume purchase increases. For many, housing-related costs put food security, access to medicines and education at risk. Women and young girls shared their distress and concern for having to wash and defecate in public spaces for lack of a washroom within their homes or for poor conditions of public services.

54. The Special Rapporteur heard testimonies of house demolition in informal settlements in a number of municipalities without due process of law or the provision of alternative

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<sup>33</sup> Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on forced evictions.

accommodation. Residents also noted they had no proper access to remedies and compensation. Reportedly, there is no systematic monitoring of such events, no collection of data at the national or local levels about demolitions to better assess the extent of the phenomenon and there appear to be few civil society organizations or community associations equipped to systematically challenge house demolitions on human rights grounds. According to the information received, these demolitions are being carried out without resettlement programmes, leaving residents virtually homeless.

### C. Access to and affordability of electricity, water and sanitation

55. The realization of the right to housing depends upon ensuring that direct and indirect costs and charges associated with housing are affordable. These charges must not threaten a household's capacity to satisfy other rights, like the right to health or the right to education. Housing-related costs often include rent or mortgage payments and regular charges for utilities, namely electricity, water and sanitation and in some cases a phone. Shared costs in multistorey housing units or the costs of garbage collection, as well as municipal taxes, are also considered part of these essential housing expenses.

56. From a human rights perspective, it is clear that specific measures must be put in place in order to: (a) regulate the costs of housing-related charges in line with minimum and average incomes of the population; (b) ensure that those who are the poorest and most marginalized are not deprived of adequate housing owing to socioeconomic status or unstable incomes; and (c) establish, in so far as possible, measures and mechanisms to mitigate the impact of high costs in the standard of living of low-income individuals and households (such as with adequate subsidies, lower tariffs for a basic amount of essential services etc.).

57. Cabo Verde has made steady progress in ensuring access to services, such as electricity and water, but affordability of these services remains an acute problem. In fact, the power tariff and the water tariff are among the highest in Africa. Considering that 24.5 per cent of the population lives with under US\$ 1 a day,<sup>34</sup> and well below the poverty line, the situation is of serious concern and requires immediate and targeted measures.

58. Cabo Verde has achieved a relatively high rate of electrification.<sup>35</sup> Electricity is supplied by Electra, a national State-owned enterprise, which deals with production and distribution on most of the country's islands,<sup>36</sup> as well as water supply on the islands of São Vicente, Sal and Boavista and in Praia. In the rest of the country, water service is provided directly by local municipalities.<sup>37</sup> According to the 2010 census, 81.1 per cent of the population had access to electricity, with 89.6 per cent of housing units in urban areas connected to the public electricity network and 63.8 per cent in rural areas.<sup>38</sup> The municipalities that registered the lowest rates of electrification were the municipalities of São Miguel, with 48.1 per cent, and that of Santa Catarina do Fogo, with 46.7 per cent.<sup>39</sup> With a power tariff in 2010 of approximately US\$ 0.25

<sup>34</sup> See United Nations Cabo Verde, "Cape Verde an Emerging Nation", Chart of Millennium Development Goals 1990-2015, Goal 1, p. 6.

<sup>35</sup> Cecilia M. Briceño-Garmendia and Daniel Alberto Benitez, "Cape Verde's Infrastructure: A Continental Perspective", Africa Infrastructure Country Diagnostic (International Bank for Reconstruction and Development and the World Bank, 2010), p. 10. Available at [www.ppiaf.org/sites/ppiaf.org/files/publication/AICD-CapeVerde-Country-Report.pdf](http://www.ppiaf.org/sites/ppiaf.org/files/publication/AICD-CapeVerde-Country-Report.pdf).

<sup>36</sup> United National Industrial Development Organization and Centre for Renewable Energy and Energy Efficiency of the Economic Community of West African States, "Cape Verde: Energy Analysis and Recommendation", p.52. Available at [www.ecreee.org/sites/default/files/unido-ecreee\\_report\\_on\\_cape\\_verde.pdf](http://www.ecreee.org/sites/default/files/unido-ecreee_report_on_cape_verde.pdf).

<sup>37</sup> Briceño-Garmendia and Benitez, Africa Infrastructure Country Diagnostic, p. 14.

<sup>38</sup> See National Institute of Statistics, 2010 census, "Resumo dos principais resultados por meio de residência e concelho". Available at [www.ine.cv/censo/files/Resumo%20indicadores%20RGPH%202010.pdf](http://www.ine.cv/censo/files/Resumo%20indicadores%20RGPH%202010.pdf).

<sup>39</sup> Ibid., "Características dos alojamentos". Available at [www.ine.cv/actualise/destaques/files/f1696bd3-8ef5-4f1f-92b2-d4ff79def106INE-Censo2010-HabitacaoArtigo.pdf](http://www.ine.cv/actualise/destaques/files/f1696bd3-8ef5-4f1f-92b2-d4ff79def106INE-Censo2010-HabitacaoArtigo.pdf).

per kilowatt-hour,<sup>40</sup> Cabo Verde is the second most expensive country for power in Africa, behind Chad. As means of comparison, Zambia registered the lowest electricity prices in the region with less than US\$ 0.05 per kilowatt-hour, or five times cheaper than Cabo Verde.

59. With only two islands having significant water sources, namely Santo Antão and Fogo, water scarcity across the territory is a major issue for the population. Safe drinking water and sanitation are not merely essential services for the enjoyment of the right to housing, but they are human rights explicitly recognized internationally. In this context, the country's heavy reliance on stand posts, which distribute water from one or more taps to many users and are sometimes located far from homes, is far from effective. In fact, for water to be a right, it must be physically and economically accessible.

60. Considering the critical importance water has, the Special Rapporteur was concerned when discovering the exceptionally high water tariffs of Cabo Verde at over US\$ 4 per metre cube in 2008.<sup>41</sup> These high prices are due to the scarcity of water resources, leading the country to rely on desalination for approximately 85 per cent of production for human consumption.<sup>42</sup> The Special Rapporteur notes, however, that there are several mechanisms to address water affordability for the poorest and most vulnerable populations, along the lines of the report by the Special Rapporteur on the human right to safe drinking water and sanitation (see A/HRC/30/39).

61. The Government of Cabo Verde has shown a clear understanding of the importance of increasing the availability of affordable energy, having set a strategy to ensure 100 per cent renewable energy use by 2025, with already 30 per cent penetration.<sup>43</sup> While the cost of the energy-intensive desalination process is high due to its dependence on power generation, whose high costs in turn reflect reliance on small-scale diesel generation and imported oil,<sup>44</sup> the Special Rapporteur notes that access to water, intimately related to the right to adequate housing, must not be compromised due to financial costs.

62. According to the 2010 census, only 54.4 per cent of housing units have access to improved drinking water through a public distribution network. Other water supply sources include pipes through neighbours' houses, fountains and tank distribution. According to a report assessing progress on sanitation and drinking water over the past 25 years, 94 per cent of the population living in urban areas had improved access to drinking water sources, with 63 per cent of that population accessing water through pipes on their premises. In comparison, 87 per cent of the population living in rural areas demonstrated improved access to drinking water sources, with only 53 per cent of the population having piped water on their premises.<sup>45</sup> In other words, one out of two persons living in rural areas continues to collect water from a shared stand post or to receive water distributed by truck.

63. In addition, wastewater disposal systems were incorporated in approximately 66 per cent of homes, with 46.6 per cent of housing units disposing of waste through septic tanks and 19.4 per cent through the public sewer system. Households in rural areas do not have access to public sewers and rely solely on septic tanks, as is often the case in areas of low population density.<sup>46</sup> A lack of access to improved sewage systems and of regulation and management of septic tanks lead to high incidents of waterborne diseases, including infectious diarrhoeal diseases.

<sup>40</sup> Briceño-Garmendia and Benitez, *Africa Infrastructure Country Diagnostic*, Ibid, p. 4.

<sup>41</sup> Ibid, p. 14.

<sup>42</sup> Ibid, p. 4.

<sup>43</sup> See Cabo Verde, "Intended Nationally Determined Contribution of Cabo Verde to the United Nations Framework Convention on Climate Change". Available at [http://www4.unfccc.int/submissions/INDC/Published%20Documents/Cabo%20Verde/1/Cabo\\_Verde\\_INDC\\_.pdf](http://www4.unfccc.int/submissions/INDC/Published%20Documents/Cabo%20Verde/1/Cabo_Verde_INDC_.pdf).

<sup>44</sup> Briceño-Garmendia and Benitez, *Africa Infrastructure country diagnostic*, p. 14.

<sup>45</sup> UNICEF and World Health Organization, "25 years' progress on sanitation and drinking water: 2015 Update and MDG Assessment", p. 59. Available at [www.unicef.org/publications/files/Progress\\_on\\_Sanitation\\_and\\_Drinking\\_Water\\_2015\\_Update\\_.pdf](http://www.unicef.org/publications/files/Progress_on_Sanitation_and_Drinking_Water_2015_Update_.pdf),

<sup>46</sup> See National Institute of Statistics, "Características dos alojamentos".

64. On average, 63 per cent of housing units have toilets or latrines, but only 43 per cent have flush systems; it appears that 43.6 per cent of households have at least one bathtub or shower. Furthermore, roughly 76 per cent of housing units at the national level have a kitchen. Most of the kitchens in rural areas are located outside the housing unit in the open air.

65. A new social and gender strategy for the water and sanitation sector, 2015-2020, is pending adoption. It aims to enhance the quantity and quality of water, counting on a minimum daily consumption of 40 litres of water by 2030 and the installation of 32,500 bathrooms in homes that currently do not have one. This is a joint strategy adopted by the National Water and Sanitation Agency, the Economic Regulation Agency, the National Directorate for the Environment and the Ministry of the Environment, Housing and Spatial Planning. The strategy aims at contributing to social inclusion, gender equality and poverty reduction, taking inspiration from the recently adopted Sustainable Development Goals.<sup>47</sup>

#### **D. Natural disasters: post-disaster reconstruction**

66. The country has suffered a number of natural disasters over the years. In September 2015, after the Special Rapporteur's visit, the archipelago was hit by Hurricane Fred, which left approximately 50 families displaced and in need of temporary shelter and longer-term resettlement.

67. A massive volcanic eruption on Fogo island beginning in November 2014, led to the internal displacement of over one thousand people living in Chã das Caldeiras, the crater area, including 490 children.<sup>48</sup> The affected people had a unique connection to their land given that their subsistence largely stems from agriculture and livestock. As of December 2014, over 900 people were relocated in temporary accommodation centres and in host families' homes. The lava destroyed over 230 buildings, including the national park headquarters, wine and jam production facilities, a primary school, churches, 100 per cent of the infrastructure of Portela and Bangaieira, as well as more than 120 hectares of agricultural land, leaving many residents without a source of income. Contingency plans were reportedly put in place to accommodate an additional potential 2,109 evacuees from the communities neighbouring Mosteiros, on the north-eastern flank of the volcano, namely Cutelo Alto and Fonsaco.<sup>49</sup>

68. The reconstruction and rehabilitation of communities affected by disasters is a challenge for authorities, both in terms of technical and financial resources. The previous mandate holder noted that disaster response appeared to differ greatly according to whether it addresses the situation of individual, formally registered property owners or that of all those with other types of tenure arrangements (see A/66/270, para. 20). Sometimes tenure documentation and legal proof of rights are prerequisites for establishing beneficiary eligibility, with the consequence of excluding the poorest and most vulnerable.

69. The Special Rapporteur was made aware of ongoing discussions about resettlement for displaced individuals and families, although it was not clear whether those who were displaced by the volcano activity had been duly consulted about permanent resettlement. It was also noted that housing units built for resettlement after a 1995 eruption had been left unused because the location chosen at the time was far from the land for farming and other livelihood activities upon which the community relied. She is hopeful that reconstruction alternatives will be designed with the full participation of affected communities, taking into account the specific cultural

<sup>47</sup> See *Estratégia Social e Género para o Sector da água e Saneamento em Cabo Verde*, prepared by the Social and Gender Network for Water and Sanitation Sector, 7 July 2015.

<sup>48</sup> See "Cabo Verde: 2014 One UN Annual Report", p. 30. Available at [www.un.cv/files/2014caboverdear.pdf](http://www.un.cv/files/2014caboverdear.pdf).

<sup>49</sup> See United Nations Disaster Assessment and Coordination and United Nations Office in Cabo Verde, "Assessment report: volcano eruption - Republic of Cabo Verde, as of 16 December 2014". Available at <http://reliefweb.int/sites/reliefweb.int/files/resources/UNDAC%20Rapid%20Assessment%20-%20Cabo%20Verde%20Volcano%20Eruption%20Dec%202014%20v0.7.pdf>.

context and the search for durable solutions that address the need for the protection of livelihoods, including a return to their homes or to long-term housing in agreed upon well-serviced locations.

## **E. Persons in vulnerable situations**

70. Non-discrimination is a fundamental principle of international human rights law and a central component of the Special Rapporteur's mandate. Article 2 (2) of the International Covenant on Economic Social and Cultural Rights and similar provisions in all other ratified human rights instruments oblige Cabo Verde to guarantee that the rights enunciated therein, such as the right to adequate housing, are exercised 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.

### **1. Women**

71. Access to and affordability of adequate housing and land for the very poor, a significant portion of whom are women, remain a challenge in main cities and rural areas in Cabo Verde. In addition, there are various groups of women who are particularly vulnerable to discrimination and, owing to a combination of factors, face additional obstacles in accessing adequate housing, including widowed, elderly, divorced or separated women, female-headed households, women with disabilities, and victims of gender-based violence.

72. Cabo Verde has made progress in addressing gender-based violence, including through the National Action Plan for Combating Gender-based Violence, 2005-2009, and with the Law on Gender-based Violence.<sup>50</sup> The Law provides for the creation of temporary shelters, with a maximum time for temporary housing of up to 30 days, to help women to escape violence. Although the Law on Gender-based Violence was adopted in March 2011, its regulatory framework only entered into force in January 2015 to address the shortcomings identified during the first four years of its existence and the need to ensure the appropriate mechanisms for its full implementation, including the creation of shelters for women victims.

73. Of particular concern at the time of the visit was the lack of emergency shelters and of long-term housing solutions for women trying to leave violent households. The Special Rapporteur was informed after the visit that with the entry into force of the regulatory framework of the Law on Gender-based Violence, there are now rules for the creation and functioning of the shelters and support centres for victims in all municipalities. In this context, the first pilot shelter resulting from a public-private partnership will be inaugurated in the village of Tarrafal (Santiago island) by the end of 2015.

74. Similarly, in October 2015, the creation of the autonomous Fund for Victim Support provided resources for the functioning and sustainability of shelters (and other protection measures). However, important obstacles seem to remain, notably obtaining sufficient financial and administrative resources for the creation of shelters on all islands of Cabo Verde.

75. Two other important national policies are the National Plan for Gender Equality, 2015-2018, approved by the Council of the Ministry in April 2015, and the National Plan for Combating Gender-based Violence, 2014-2017, currently pending approval by the Council of Ministers. Core elements of both plans are the mobilization of resources and public funds for law enforcement and strengthening and accelerating the provision of services and policies.

<sup>50</sup> Law 84/VII/2011.



## 2. Persons with disabilities

76. The Special Rapporteur visited several households in which children with disabilities reside. She is deeply concerned with the physical and social conditions in which they live. Informal settlements are completely inadequate and inaccessible for this population. They are often located in steep locations, have stairs at their entrances or narrow doorways through which a wheelchair cannot pass. In some communities children with disabilities are unable to attend school or participate in community activities, including playing with other children, for lack of appropriate facilities, transportation and skilled teachers, and there are few educational or other programmes to ensure the social inclusion of children with disabilities. It appeared to the Special Rapporteur that a culture of shame may still exist for the families of persons with disabilities.

77. The Special Rapporteur is also concerned that, while the country has good intentions of ensuring accessible housing units through the “Casa para Todos” programme, in some cases no such units are in fact available and in other cases the units designated for persons with disabilities do not meet the necessary standards to ensure accessibility.

## 3. Children and adolescents living in the streets

78. The Special Rapporteur learned that there is a population of children who are on the streets to escape inadequate housing conditions and/or violence or to assist in generating an income for their families. While some charitable services appear to be available, it is unclear to the Special Rapporteur whether these services are sufficient and whether the Government has a plan or strategy to address the causes of such situations and prevent them.

# V. Access to justice

79. The existence of independent monitoring institutions and mechanisms through which to access justice is crucial to ensure compliance with international and domestic human rights law, including the right to housing. The Special Rapporteur was pleased to find that Cabo Verde has institutional mechanisms in place to ensure the protection of human rights, and to ensure their promotion, and has also created or joined specific mechanisms to guarantee access to effective remedies and to justice for violations of the right to housing and other related human rights.

## 1. Ombudsperson

80. In 1999, the Office of the Ombudsman (Provedor de Justiça)<sup>51</sup> was established as an independent and auxiliary organ, elected by the National Assembly and with powers to cooperate with all organs and public authorities, including by providing views and recommendations related to the Constitution. The 2010 amendment to the Constitution further strengthened and systematized the role of the Ombudsman by making explicit its function to exercise abstract control of constitutionality (art. 280). The current Ombudsman took office in January 2014.

81. The Special Rapporteur welcomed the opportunity to discuss the comprehensive mandate of the Ombudsman. She salutes his willingness and responsiveness to make use of the tools at his disposal to enhance the protection of the right to housing and encourages him to increase his involvement with the issues outlined in this report, in line with his broad mandate, which includes: (a) providing recommendations to competent bodies about legislation under consideration or administrative mechanisms, including amendments; (b) preparing suggestions for new legislation in line with human rights standards; (c) providing protection for collective or diffuse interests whenever public entities are involved; (d) issuing official opinions on matters related to its mandate, at the request of the National Assembly; (e) visiting, with or without prior notice, any central government entities, local business facilities, or public companies to examine

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<sup>51</sup> See [www.provedoriadejusticav.com/](http://www.provedoriadejusticav.com/).

and collect information or undertake hearings; and (f) carrying out any investigation necessary in line with its mandate.

## **2. National Commission for Human Rights and Citizenship**

82. Cabo Verde has the National Commission for Human Rights and Citizenship, established in 2004, which is part of the Ministry of Justice. In 2011, the Commission submitted a new statute in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) to be approved by the Parliament, providing it with the requisite autonomy and independence. At the time of preparation of this report, this statute had not yet been passed by Parliament and it is not known if or when the Commission will be granted independence.

83. Cabo Verde has received recommendations from a number of international human rights mechanisms with respect to the need to strengthen this institution and ensure its independence (see, for example, CCPR/C/CPV/CO/1, para. 5). In the 2013 universal periodic review of Cabo Verde, for instance, several States recommended strengthening the Commission and expediting the reform and approval of its new statutes in full compliance with the Paris Principles (see A/HRC/24/5). Also in 2013, the Committee on the Elimination of Discrimination against Women called on the Government to provide the Commission with sufficient human and financial resources and a broad mandate covering women's rights and gender equality (see CEDAW/C/CPV/CO/7-8, para. 11 (a)).

84. The Special Rapporteur was pleased to meet with representatives of the Commission and to confirm the engagement and commitment they have shown to providing legal aid and advice, including via a hotline, and to disseminating the scope and content of central international treaties, such as the International Covenant on Economic, Social and Cultural Rights, in relation to evictions and living conditions in informal settlements.

## **3. National Action Plan for Human and Citizenship Rights**

85. The National Action Plan for Human and Citizenship Rights, 2014, is aimed at identifying the main constraints on the realization of human rights, especially for the most vulnerable groups. In it, priorities are established and proposals made for the administrative, legislative and institutional levels. Developed as a framework for partnership between the Government, civil society and the private sector over the following five years, it can play a relevant role in relation to housing through programmes or integrated projects, ensuring periodic monitoring and evaluation of the various actions undertaken in this sector. In the Plan, the creation of the National Committee for Human Rights is also envisaged to effectively ensure the protection and promotion of human rights in the country. This is the second national action plan of this kind and has been pending approval since 2013.

## **4. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**

86. In addition to its national mechanisms, Cabo Verde is one of only 22 States that have ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Right. The Optional Protocol entered into force on 5 May 2013 providing for the first time an international individual complaints mechanism for alleged violations of economic, social and cultural rights. Under the Optional Protocol, rights holders who have exhausted domestic remedies and who live in States that have ratified the instrument can submit their case for review by the Committee on Economic, Social and Cultural Rights.

87. While all the institutional mechanisms described in the previous paragraphs are very promising in terms of access to justice, in the Special Rapporteur's view, it is not clear whether they are being used systematically or to their full potential, or whether individuals can claim the right to housing and seek remedy for a violation.

88. The Special Rapporteur was concerned at the apparent lack of government accountability for ensuring the right to adequate housing and the limited use of justice mechanisms and remedies for violations of this right. In particular, it appeared that there may be an overlap in jurisdiction and responsibilities between the Office of the Ombudsman and the National Commission for Human Rights and Citizenship. There appears to be need for enhanced coordination between these bodies. Furthermore, it is not clear whether these entities are empowered to hold the national or local governments, or the private providers of housing-related services, accountable for their international human rights obligations or have developed a practice of doing so. Both the Office of the Ombudsman and the Commission indicated that they were understaffed and had limited resources with which to fulfil their mandates. Furthermore, the delays in ensuring the independence of the Commission, in conformity with the Paris Principles, worried the Special Rapporteur, for without such independence the ability of the Commission to fulfil its role is very limited.

89. The Special Rapporteur also noted that courts are not being used as a mechanism to claim the right to adequate housing. In that light, the Special Rapporteur has to conclude that the ratification by Cabo Verde of the Optional Protocol is, at this point, mainly symbolic, as domestic remedies and accountability mechanisms are not being utilized for the realization of the right to housing.

## VI. Conclusions and recommendations

90. **The Special Rapporteur commends Cabo Verde for the priority accorded to housing in recent years, including by declaring 2009 the Year of Housing and by putting in place a legal framework and other mechanisms that are consistent with the right to housing. The flagship housing programme, “Casa para Todos”, in principle and as conceptualized, is generally in keeping with the right to adequate housing, as is “Operation Esperança”.**

91. **At the same time, the Special Rapporteur has identified a number of significant barriers to the enjoyment of the right to adequate housing, particularly for groups in vulnerable situations, such as women and persons with disabilities. She has discussed in this report several of these challenges, notably the lack of secure, safe housing for a burgeoning urban population. She has noted that “Casa para Todos” does not appear to be accessible to the poorest and most vulnerable, and the poorest households will not be able to maintain housing costs associated with the programme over time (for example, the cost of utilities and charges to maintain common areas). The “Habitar CV” segment of the programme does not seem to respond to the need for affordability, sustainability and adequate location essential for those most in need of adequate housing. She is also very concerned that the “Casa para Todos” model is not sustainable, relying primarily on foreign loans.**

92. **At the same time, the Special Rapporteur has underlined the growth of informal, unplanned settlements, without adequate services, and the poor security of tenure for the urban poor, including the threat of illegal demolitions or the absence of regulatory systems to protect tenants from evictions or changes in rental conditions without guarantees of due process. She noted with concern the high costs of electricity and water, and the need to design and implement safeguards for low-income households that may be forced to jeopardize other essential services in order to afford housing-related expenses.**

93. **While these barriers are substantial and require structural responses, many are not insurmountable. The Special Rapporteur is confident that the following recommendations can assist in prioritizing the betterment of housing conditions in Cabo Verde, ensuring that the right to housing is secured for a greater portion of the population, particularly those in vulnerable situations.**

94. In this spirit, the Special Rapporteur wishes to offer the following recommendations to the Government, the local authorities and the international community:

(a) **Legal and policy framework and implementation:**

(i) All housing legislation and related policies and programmes should be reviewed in the light of international human rights law, the Constitution and existing standards pertaining to the right to adequate housing. In particular, the review and dialogue about the National Social Housing System should include all relevant actors, in particular municipal government officials;

(ii) The priorities within the National Social Housing System, particularly in relation to the “Casa para Todos” programme should be revisited to ensure that a greater proportion of technical and financial resources are directed to the rehabilitation and upgrading of existing homes and housing units, that services are provided in existing informal settlements, that diverse tenure systems are protected and that the expansion of housing options for low-income households is carried out with affordability, sustainability and adequate location;

(iii) All levels of government must refrain from demolishing homes. Such actions constitute a violation of the right to adequate housing under international human rights law. Where eviction is unavoidable for legitimate reasons based on objective evidence or owing to high risks of natural disaster, international human rights standards must be followed, including meaningful consultation with those affected, a consideration of all alternatives to the eviction, due process, housing alternatives as agreed upon by those affected, adequate compensation and access to justice;

(iv) Regulatory and monitoring mechanisms should be established for housing-related actors, such as for private renters, as well as for utility providers, whether public or private companies. The cost of utilities must be regulated, with due consideration to the burden placed on low-income households. Subsidies and other targeted mechanisms should be put in place for low-income households to ensure affordability;

(v) Given that the country is highly reliant on aid and loans provided by the international community, including international financial institutions, the provision of loans and aid must be in line with the States human rights obligations and national priorities;

(vi) In relation to post-disaster resettlement, effective consultation should be carried out with the individuals and communities affected, ensuring various housing alternatives are considered prior to decision-making and are in line with the need for people to preserve their livelihoods and to ensure cultural adequacy in the ways in which they are housed or resettled;

(vii) Systematic, periodic data collection and disaggregation by various grounds of discrimination should be enhanced, in order to ensure that public policies respond to the existing need and with due consideration for those in the most vulnerable situations;

(b) **Relations between the Central Government and the municipalities:**

(i) Effective implementation of the right to adequate housing cannot be achieved without the proactive involvement of local governments (municipalities). In order to ensure this, the national Government must increase its budgetary allocations to the municipalities. The national Government must also be responsive and support existing or alternative housing programmes developed by municipalities;

(ii) Tourism is an essential source of revenue for the country and its impact on housing should be addressed from a human rights perspective. Agreements with

international tourism enterprises must be conditional on upholding international human rights obligations;

(c) Access to justice and accountability mechanisms

(i) A national plan of action on disability in accordance with the Convention on the rights of persons with disabilities, placing housing and accessibility at its core, should be adopted;

(ii) The National Commission for Human Rights and Citizenship should be strengthened and provided with autonomy and independence in compliance with the Paris Principles;

(iii) The Office of the Ombudsman is encouraged to consider housing-related investigations, proposals of legislation and regular monitoring under its mandate as a critical area for enhancement of a culture of human rights in public policy design and implementation;

(iv) The implementation of the National Plan for Combating Gender-based Violence, 2014-2017, and the Law on Gender-based Violence should be accelerated and public budget allocation and execution in gender equality increased, including by creating the conditions for full implementation of the law, in particular the creation of both temporary emergency shelter and longer-term housing solutions.

(v) Technical and financial support must be provided to relevant actors, including civil society organizations, so that they can hold the Government accountable for their human rights obligations, using mechanisms such as the Ombudsman, the National Commission for Human Rights and Citizenship and the courts;

(vi) In accordance with its obligations under international human rights law, Cabo Verde must ensure that it reports to treaty body monitoring mechanisms and makes every effort to do so in a timely and systematic manner. In particular, the Special Rapporteur highly encourages the submission of its pending reports to the Committee on Economic, Social and Cultural Rights;

(vii) The United Nations country team, and in particular UN-Habitat and the Office of the United Nations High Commissioner for Human Rights, should provide Cabo Verde with technical assistance regarding the implementation of the right to adequate housing at the central and municipal level, including in relation to enhancing security of tenure, upgrading living conditions in informal settlements and addressing the lack of action with regard to forced evictions, and enhance its partnerships with local associations and civil society organizations.