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October 28, 2015

Ms. Leilani Farha

**Human Rights Watch Submission to the Special Rapporteur
on the Right to Adequate Housing**

Dear Ms. Farha,

Human Rights Watch welcomes the opportunity to share information and analysis with the Special Rapporteur on the Right to Adequate Housing (“Special Rapporteur”) for a forthcoming report on homelessness and the right to adequate housing. Human Rights Watch notes that lesbian, gay, bisexual, and transgender (LGBT) youth in countries around the world are acutely vulnerable to homelessness. This vulnerability is often the product of hostile home and school environments, and is exacerbated by policies to address homelessness that fail to acknowledge the unique needs of LGBT youth populations.

Human Rights Watch has documented instances of LGBT people being driven or evicted from their homes in Liberia,¹ Tanzania,² and South Africa;³ raised concerns about employment discrimination and socioeconomic marginalization in Russia and Kazakhstan;⁴ and recently has explored the specific vulnerabilities of LGBT youth at

¹ Human Rights Watch, “It’s Nature, Not a Crime”: Discriminatory Laws and LGBT People in Liberia, December 3, 2013, <http://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

² Human Rights Watch, “Treat Us Like Human Beings”: Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania,” June 18, 2013, <http://www.hrw.org/report/2013/06/18/treat-us-human-beings/discrimination-against-sex-workers-sexual-and-gender>.

³ Human Rights Watch, “We’ll Show You You’re a Woman”: Violence and Discrimination against Black Lesbians and Transgender Men in South Africa, December 5, 2011, <http://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>.

⁴ Human Rights Watch, “That’s When I Realized I Was Nobody”: A Climate of Fear for LGBT People in Kazakhstan, July 23, 2015, <https://www.hrw.org/report/2015/07/23/thats-when-i-realized-i-was-nobody/climate-fear-lgbt-people-kazakhstan>; Human Rights Watch, License to Harm: Violence and Harassment against LGBT People and Activists in Russia, December 15, 2014, <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia>.



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risk of or experiencing homelessness in Jamaica.⁵ The following recommendations are based on research and analysis conducted in the United States, where LGBT youth are disproportionately likely to experience homelessness relative to their heterosexual and cisgender peers.

Extent and Experiences of LGBT Youth Homelessness

LGBT youth are drastically overrepresented in the population of youth experiencing homelessness in the United States. As the United States Interagency Council on Homelessness has noted, there is a consensus that twenty to forty percent of youth experiencing homelessness are LGBT, which is disproportionate to the percentage of LGBT youth in the wider population.⁶ A recent survey of service providers for youth experiencing homelessness found that approximately 40% of the clients providers encounter are LGBT.⁷ The providers also noted the proportion of LGBT youth they have served has increased over the past decade,⁸ as youth have begun coming out to family and friends at a younger age when they are less equipped to financially support themselves in the event of rejection or expulsion from the home.⁹

LGBT youth who experience homelessness are not only at risk because of their sexual orientation and gender identity, but often face multiple forms of marginalization. LGBT youth at risk of homelessness are disproportionately from poor or working class households.¹⁰ Studies also suggest LGBT youth of color are at particular risk of experiencing homelessness.¹¹ In 2015, service providers reported that a median 31% of LGBT clients identified as African American or Black; 14%

⁵ Human Rights Watch, Not Safe at Home: Violence and Discrimination against LGBT People in Jamaica, October 21, 2014, <http://www.hrw.org/report/2014/10/21/not-safe-home/violence-and-discrimination-against-lgbt-people-jamaica>.

⁶ United States Interagency Council on Homelessness (USICH), LGBTQ Youth Homelessness in Focus, http://usich.gov/issue/lgbt_youth/lgbtq_youth_homelessness_in_focus (last visited October 26, 2015).

⁷ Soon Kyu Choi et al., The Williams Institute & True Colors Fund, Serving Our Youth 2015: The Needs and Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Experiencing Homelessness, June 2015, <http://williamsinstitute.law.ucla.edu/research/safe-schools-and-youth/serving-our-youth-2015-the-needs-and-experiences-of-lesbian-gay-bisexual-transgender-and-questioning-youth-experiencing-homelessness>; *see also* Laura E. Durso & Gary J. Gates, Serving Our Youth: Findings from a National Survey of Services Providers Working with Lesbian, Gay, Bisexual and Transgender Youth Who are Homeless or At Risk of Becoming Homeless, July 2012, <http://williamsinstitute.law.ucla.edu/research/safe-schools-and-youth/serving-our-youth-july-2012>.

⁸ Choi et al., Serving Our Youth 2015.

⁹ USICH, LGBTQ Youth Homelessness in Focus.

¹⁰ National Alliance to End Homelessness, LGBTQ Homeless Youth Fact Sheet, <http://www.safeschoolscoalition.org/LGBTQhomelessFactSheetbyNAEH.pdf> (last visited October 26, 2015).

¹¹ Andrew Cray, Katie Miller, & Laura E. Durso, Center for American Progress, Seeking Shelter: The Experiences and Unmet Needs of LGBT Homeless Youth, September 2013, <https://www.americanprogress.org/wp-content/uploads/2013/09/LGBTHomelessYouth.pdf>.

identified as Latina, Latino, or Hispanic; 1% identified as Native American; and 1% identified as Asian or Pacific Islander.¹²

In addition to their overrepresentation in populations of youth experiencing homelessness, LGBT youth face longer durations of homelessness and are more susceptible to violence, substance abuse, and mental and physical health problems than heterosexual, cisgender youth.¹³ In New York City, for example, transgender youth who are separated from their families remain separated for twice as long as homeless youth generally.¹⁴ A recent survey found that almost two-thirds of LGBT youth experiencing homelessness had grappled with mental health issues, and studies suggest they are more likely to report depression, bipolar disorder, suicidal ideation, and suicidal attempts.¹⁵ LGBT youth are also more than twice as likely to lack access to medical care for both chronic and acute illnesses, three times as likely to have needed and not obtained an STI test, and seven times as likely to have needed and not obtained HIV treatment than their heterosexual, cisgender peers.¹⁶

Many transgender youth require gender-affirming medical services that are not covered by public insurance programs, and youth who are HIV-positive are put at risk when treatment regimens are disrupted by unstable housing and healthcare. LGBT youth experiencing homelessness are more likely to abuse alcohol, use intravenous drugs, and use hard drugs, and are more likely to engage in high-risk sexual activity.¹⁷ Once homeless, LGBT youth are also more likely to be victims of sexual assault, physical assault, and robbery than their heterosexual, cisgender counterparts.¹⁸

Systemic and Structural Causes of LGBT Youth Homelessness

Although LGBT youth are disproportionately likely to be at risk for or experience homelessness in the United States, both public and private programs have failed to address the unique vulnerabilities of this population.

Family Rejection

Research has consistently indicated that family rejection on the basis of sexual orientation or gender identity is the primary reason LGBT youth are forced from their

¹² Choi et al., *Serving Our Youth* 2015.

¹³ Choi et al., *Serving Our Youth* 2015.

¹⁴ Cray, Miller, & Durso, *Seeking Shelter*.

¹⁵ National Alliance to End Homelessness, *LGBTQ Homeless Youth Fact Sheet*; Cray, Miller, & Durso, *Seeking Shelter*.

¹⁶ Cray, Miller, & Durso, *Seeking Shelter*.

¹⁷ National Alliance to End Homelessness, *LGBTQ Homeless Youth Fact Sheet*; Cray, Miller, & Durso, *Seeking Shelter*.

¹⁸ Cray, Miller, & Durso, *Seeking Shelter*.

homes or run away from their homes.¹⁹ Overall, an estimated 75% of lesbian, gay, and bisexual youth and 90% of transgender youth experiencing homelessness grapple with some form of family rejection.²⁰ When asked to name the most prevalent cause of LGBT youth homelessness, family rejection was named by 55% of those serving lesbian, gay, and bisexual youth and 67% of those serving transgender youth,²¹ which is consistent with a number of academic studies that confirm family conflict is a primary driver of LGBT youth homelessness.²² The Reconnecting Youth to Prevent Homelessness Act, which sought in part to develop programs that would work with families to prevent LGBT youth homelessness, has yet to become law, and several federal efforts to address family rejection have stalled.²³

Bullying and Harassment in Schools

Human Rights Watch and other organizations have documented high rates of bullying and harassment of LGBT youth in US schools, which can cause students to leave school early and limit their future education and employment opportunities.²⁴ Agencies working with LGBT youth experiencing homelessness estimate that 70% of lesbian, gay, and bisexual clients and 90% of transgender clients grapple with harassment and bullying.²⁵ Approximately 12% of the lesbian, gay, and bisexual youth and 20% of the transgender youth who use their services have dropped out of high school, and those who remain in school often lack resources and support that attend to the unique needs of youth experiencing homelessness. Only nineteen states prohibit bullying on the basis of sexual orientation and gender identity,²⁶ and efforts to curb bullying and harassment on the basis of sexual orientation and gender identity at the federal level have stalled as Congress has failed to enact the Student Non-Discrimination Act (SNDA) and Safe Schools Improvement Act (SSIA) into law.²⁷

¹⁹ Choi et al., *Serving Our Youth* 2015; Durso & Gates, *Serving Our Youth*.

²⁰ Choi et al., *Serving Our Youth* 2015.

²¹ Choi et al., *Serving Our Youth* 2015.

²² *See, e.g.*, Heather Corliss et al., High Burden of Homelessness Among Sexual-Minority Adolescents: Findings from a Representative Massachusetts High School Sample, *American Journal of Public Health*, Vol. 101, No. 9, September 2011, pp. 1683-1689; L. Rew et al., Sexual Health Risks and Protective Resources in Gay, Lesbian, Bisexual, and Heterosexual Homeless Youth, *Journal for Specialists in Pediatric Nursing*, Vol. 10, No. 1, January-March 2005, pp. 11-19.

²³ Cray, Miller, & Durso, *Seeking Shelter*.

²⁴ Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in US Schools*, 2001, <https://www.hrw.org/report/2001/05/01/hatred-hallways/violence-and-discrimination-against-lesbian-gay-bisexual-and>.

²⁵ Choi et al., *Serving Our Youth* 2015.

²⁶ Movement Advancement Project (MAP), *Safe School Laws*, http://www.lgbtmap.org/equality-maps/safe_school_laws (last visited October 26, 2015)

²⁷ Cray, Miller, & Durso, *Seeking Shelter*.

Discrimination

In many parts of the United States, LGBT youth, like other LGBT individuals, lack any protection from discrimination on the basis of sexual orientation and gender identity. In twenty-eight states, there are no state-wide laws prohibiting discrimination in employment and housing on the grounds of sexual orientation, and no such laws prohibit discrimination on the grounds of gender identity in thirty-one states.²⁸ Overall, approximately 52% of the LGBT population in the United States lives in states without legal prohibitions on firing or evicting somebody because they are LGBT.²⁹

Discrimination against LGBT people is widespread in both housing and access to services for people experiencing homelessness. According to the National Transgender Discrimination Survey, 19% of transgender people in the United States have been denied housing because of their gender identity, and 11% of transgender people in the United States have been evicted because of their gender identity.³⁰ The Department of Housing and Urban Development (HUD) has recognized that transgender people are highly susceptible to housing discrimination, and has issued guidance clarifying that the Fair Housing Act's prohibition of discrimination on the basis of sex includes discrimination on the basis of gender identity. Such guidance is important, but is neither strong nor clear enough to substitute for a provision explicitly prohibiting discrimination on the basis of gender identity.³¹

As a result of family rejection, bullying and harassment, and discrimination in employment and housing, transgender individuals experience homelessness at disproportionately high rates. One in five transgender people in the United States has experienced homelessness at some point in their life.³² And when transgender people experience homelessness, they face additional discrimination.

Approximately 29% of transgender people experiencing homelessness have been turned away from a shelter because of their gender identity, and 42% have been forced to stay in a shelter as the wrong gender.³³ When transgender individuals have stayed at a shelter, 22% have been sexually assaulted by other residents or staff.³⁴

²⁸ Movement Advancement Project (MAP), Non-Discrimination Laws, http://www.lgbtmap.org/equality-maps/non_discrimination_laws (last visited October 26, 2015).

²⁹ MAP, Non-Discrimination Laws.

³⁰ National Center for Transgender Equality (NCTE), A Blueprint for Equality: Federal Agenda for Transgender People, June 29, 2015, <http://www.transequality.org/issues/resources/a-blueprint-for-equality-a-federal-agenda-for-transgender-people-2015>.

³¹ NCTE, A Blueprint for Equality.

³² NCTE, A Blueprint for Equality.

³³ NCTE, A Blueprint for Equality; Lisa Mottet & John M. Ohle, National Gay and Lesbian Task Force Policy Institute & National Coalition for the Homeless, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*, 2003, http://www.thetaskforce.org/downloads/reports/reports/transitioning_our_shelters.pdf.

³⁴ NCTE, A Blueprint for Equality.

Criminalization and the Lack of Services for LGBT Youth Experiencing Homelessness

A number of states and localities in the United States use criminal laws to punish particular behaviors and functions performed in public – for example, loitering, begging, trespassing, camping, obstructing sidewalks, erecting temporary shelters, or storing belongings in public. According to the National Law Center on Homelessness and Poverty, these laws disproportionately affect people experiencing homelessness, and often prohibit the performance of essential human functions – for example, eating, urinating, or sleeping – that people experiencing homelessness must by necessity perform in public.³⁵ The United Nations Human Rights Committee has expressed concern “about reports of criminalization of people living on the street for everyday activities such as eating, sleeping, sitting in particular areas, etc.” and found that “such criminalization raises concerns of discrimination and cruel, inhuman and degrading treatment.”³⁶ Such laws may also threaten freedom of assembly, freedom from arbitrary arrest and detention, the right to privacy, the right to the family, the right to vote, and the right to liberty and security of the person.³⁷

The US Department of Justice recently concluded that criminalizing certain necessary behaviors is unconstitutional,³⁸ yet the National Law Center on Homelessness and Poverty has found that the number of laws criminalizing homelessness has increased significantly in recent years and such laws remain on the books across the United States.³⁹

LGBT youth experiencing homelessness, like other people experiencing homelessness, are often targeted under these laws. The result is not only that youth face the punishments immediately associated with these laws, but also acquire a criminal record that makes it more difficult for them to secure employment, find housing, and break the cycle of poverty and homelessness that led to their arrest.

³⁵ National Law Center on Homelessness and Poverty (NLCHP), *No Safe Place: The Criminalization of Homelessness in U.S. Cities*, July 2014, http://www.nlchp.org/documents/No_Safe_Place; Megan Corrarino, Alicia Sanchez Ramirez, & Ryan Thoreson, National Law Center on Homelessness and Poverty & Allard K. Lowenstein International Human Rights Clinic, *Cruel, Inhuman, and Degrading: Homelessness in the United States under the International Covenant on Civil and Political Rights*, August 23, 2013, http://www.nlchp.org/Cruel_Inhuman_and_Degrading.

³⁶ United Nations Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of the United States of America*, April 23, 2014, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsijKy2osgGcLSyqccXog1nnMFNOUOQBx7X%2bl55yhlwkdK6CFoOAdiqu2L8SNxDB4%2bVRPkf5gZFbTQO3y9dLrUdPTuHD9dqamTraO4ih2lz%2f>

³⁷ Corrarino, Ramirez, & Thoreson, *Cruel, Inhuman, and Degrading*.

³⁸ Department of Justice, *Justice Department Files Brief to Address the Criminalization of Homelessness*, August 6, 2015, <http://www.justice.gov/opa/pr/justice-department-files-brief-address-criminalization-homelessness>.

³⁹ NLCHP, *No Safe Place*.

LGBT youth are also twice as likely as other youth to be placed in juvenile detention for status offenses like running away from home or truancy, and are more likely to face abuse, violence, and overly harsh punishments once placed in custody.⁴⁰ In twenty-nine states, consensual sex between youth is sufficient to register youth as sex offenders, and LGBT youth are disproportionately prosecuted relative to heterosexual youth.⁴¹ Because LGBT youth are over three times more likely to have engaged in survival sex to obtain shelter, food, or money than their heterosexual and cisgender peers,⁴² laws that punish minors for engaging in sex work and treat the possession of condoms as evidence of sex work also serve to entrench LGBT youth in a cycle of homelessness and incarceration.

In many instances, services for LGBT youth are ill-equipped to address their particular needs. In the United States, the federal laws that primarily deal with youth homelessness – the Runaway and Homeless Youth Act (RHYA) and the McKinney-Vento Homeless Assistance Act – do not prohibit discrimination on the basis of sexual orientation and gender identity. Efforts to amend the RHYA by passing the Runaway and Homeless Youth Inclusion Act (RHYIA), which would prohibit discrimination on these grounds, incorporate sexual orientation and gender identity into data collection efforts, and offer cultural competency training to providers, have been unsuccessful. In the absence of these provisions, federally funded initiatives and programs are often ill-equipped to offer services and support. Agencies that address youth homelessness identify a lack of federal funding as a primary reason they are not able to address the root causes of LGBT youth homelessness, particularly family rejection, as part of their work.⁴³ Shelters and other facilities that are sex-segregated may be unsafe for LGBT teens, and some services may be effectively closed to transgender youth who are unable to go through the lengthy and difficult hurdles of obtaining identification that is consistent with their gender identity. In addition to higher rates of physical and mental health issues, substance abuse, and suicidality, LGBT youth are often survivors of family or peer rejection, making affirming, culturally competent services crucially important for their well-being.

Recommendations

Human Rights Watch urges the Special Rapporteur to encourage states to:

⁴⁰ Gary Gately, Juvenile Justice Information Exchange, LGBTQ Youths Detained for Status Offenses Twice as Often as Others, April 7, 2014, <http://jjie.org/lgbtq-youths-detained-for-status-offenses-twice-as-often-as-others>.

⁴¹ Cray, Miller, & Durso, Seeking Shelter; Katayoon Majd, Jody Marksamer, & Carolyn Reyes, Equity Project, Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts, 2009, http://www.equityproject.org/wp-content/uploads/2014/08/hidden_injustice.pdf.

⁴² Cray, Miller, & Durso, Seeking Shelter.

⁴³ Choi et al., Serving Our Youth 2015; Durso & Gates, Serving Our Youth.

- Explicitly prohibit discrimination on the basis of sexual orientation and gender identity in all laws aimed at reducing and eliminating homelessness.
- Explicitly prohibit discrimination on the basis of sexual orientation and gender identity in education, employment, and housing.
- Explicitly prohibit bullying and harassment on the basis of sexual orientation and gender identity in schools.
- Repeal punitive laws and ordinances that criminalize behaviors engaged in by people experiencing homelessness, and take steps to reduce cycles of incarceration and homelessness.
- Create and fund programs designed to reduce rates of family rejection and expulsion.
- Create and fund programs to maximize cultural competency around LGBT youth issues among service providers for people at risk of or experiencing homelessness.
- Collect demographic data on homeless youth that includes information about sexual orientation and gender identity.
- Enact or strengthen guarantees allowing transgender people to access shelters and other services consistent with their gender identity.
- Offer affordable, accessible identification consistent with the bearer's gender identity to youth to facilitate their access to shelters and services.

Sincerely,



Graeme Reid
Director, LGBT Rights Program
Human Rights Watch