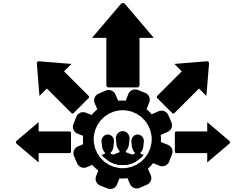


Housing as a Human Right



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Recent polling indicates that three-quarters of Americans believe that adequate housing is a human right, and two-thirds believe that government programs need to be expanded to ensure this right. The federal government is responding to this pressure. Beginning in 2013, the U.S. Interagency Council on Homelessness (USICH) adopted a human rights approach to addressing homelessness, and is actively promoting human rights standards as part of the federal housing policy conversation. At the state level, there is a trend of homeless bills of rights, and locally, a number of municipalities have passed resolutions declaring their belief in housing as a human right.

Housing advocates in the United States can and should use international human rights standards to reframe public debate, craft and support legislative proposals, supplement legal claims in court, advocate in international fora, and support community organizing efforts. Numerous United Nations (UN) human rights experts have recently visited the United States or made comments directly bearing on domestic housing issues including affordable and public housing, homelessness, and the foreclosure crisis, often providing detailed recommendations for federal- and local-level policy reforms. In 2015, advocates will work to consolidate these gains and push for action to accompany the rhetoric.

HISTORY

In his 1944 State of the Union address, President Franklin Roosevelt declared that the United States had accepted a “Second Bill of Rights,” including the right to a decent home. In 1948, the United States signed the Universal Declaration of Human Rights (UDHR), recognizing housing as a human right.

The UDHR is a non-binding declaration, so the right to housing was codified in binding treaty law in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. The United States signed, but has not ratified,

the ICESCR, and thus is not strictly bound to uphold the right to housing as framed in that document. However, the United States ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992, and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1994. Both recognize the right to be free from discrimination, including in housing, on the basis of race, gender, disability, and other status. The U.S. also ratified the Convention Against Torture (CAT) in 1994, protecting individuals from torture and other cruel, inhuman and degrading treatment, including the criminalization of homelessness.

The United States signed another declaratory document, the Habitat Agenda, in 1996, committing itself to more than 100 housing-related goals. In 2006, the United States approved the United Nations Basic Principles and Guidelines on Development-Based Evictions, which provides useful standards for ensuring participation of poor and minority groups in zoning and development decisions affecting them.

In recent years, advocates organized several high-profile visits by human rights monitors to examine U.S. housing issues. The UN-HABITAT Advisory Group on Forced Evictions and UN Special Rapporteur on the Right to Adequate Housing visited in 2009. The Special Rapporteur on the Right to Water and Sanitation visited in 2011. In all these visits, monitors met directly with local and national advocates, government officials, and media. The visits resulted in extraordinarily detailed assessments of housing policies in the United States and contain specific conclusions and recommendations based in large part on recommendations from U.S. advocates, ranging from one-for-one replacement of subsidized housing units to condemning criminalization of homelessness as potentially cruel, inhuman, and degrading treatment.

In 2012, USICH and the Department of Justice (DOJ) issued *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness*, a report which recognizes that, in addition to possible violations under the U.S. Constitution,

the criminalization of homelessness may implicate our human rights treaty obligations under the ICCPR and CAT, a first for a domestic agency report. In 2013, as noted above, USICH developed a program on human rights, another first for a domestic agency, and demonstrated advocates were successfully advancing human rights framed within a policy dialogue.

In 2014, the U.S. underwent review by the three treaty bodies charged with monitoring the ICCPR, CERD, and CAT. Each review specifically inquired about the criminalization of homelessness in the U.S., addressing it from angles of cruel, inhuman, and degrading treatment and racial discrimination, and made recommendations for federal funding incentives to discourage the practice.

Other countries have made significant headway in making the right to housing real and legally enforceable. France, Scotland, South Africa, and other countries have adopted a right to housing in their constitutions or legislation, leading to improved housing conditions. They should serve as models for domestic advocates.

ISSUE SUMMARY

According to the UN Committee on Economic, Social and Cultural Rights, which oversees the ICESCR, the human right to housing consists of seven elements: (1) security of tenure; (2) availability of services, materials, and infrastructure; (3) affordability; (4) accessibility; (5) habitability; (6) location; and (7) cultural adequacy.

In the human rights framework, every right creates a corresponding duty on the part of the government to respect, protect, and fulfill that right. Having the right to housing does not mean that the government must build a house for every person in America and give it to them free of charge. It does, however, allocate ultimate responsibility to the government for ensuring all people have access to adequate housing, whether through devoting resources to public housing and vouchers, by creating incentives for private development of affordable housing such as inclusionary zoning or the Low Income Housing Tax Credit, through market regulation such as rent control, through legal due process protections from eviction or foreclosure, by ensuring habitable conditions through housing codes and inspections, or by other means. Contrary to our current framework, which views housing as a commodity

to be determined primarily by the market, the right to housing framework gives advocates a tool for holding each level of government accountable if all those elements are not satisfied.

Scotland provides a good example of the difference a right to housing approach can make. The Homeless Etc. (Scotland) Act of 2003 includes the right for all homeless persons to be immediately housed and the right to long-term, supportive housing for as long as it is needed. The law also includes an individual right to sue if one believes these rights are not being met, and requires jurisdictions to plan for development of adequate affordable housing supplies. Complementary policies include the right to purchase public housing units and automatic referrals by banks to foreclosure prevention programs to help people remain in their homes. All these elements work together to ensure the right to housing is upheld.

FORECAST FOR 2015

Our country's current struggle with budget deficits is not a reason to defer actions to improve Americans' access to adequate housing. Rather, it is precisely in this time of ongoing economic hardship that the need to do so is most acute, and a rights-based approach to budgeting decisions would help generate the will to protect people's basic human dignity first, rather than relegating it to the status of an optional policy. In 2015, housing advocates will be using international mechanisms and standards to promote housing policy goals from the federal to local levels.

The U.S. government is scheduled for its second Universal Periodic Review by the UN Human Rights Council in May 2015, which holds the government accountable under the UDHR and all of the treaties described above. In conjunction with this review, the U.S. government is convening an ongoing series of interagency consultations (including officials from HUD, DOJ, and Health & Human Services, among others) to discuss its domestic human rights analysis and implementation of recommendations from international reviews. HUD is also leading preparations for the 2016 UN Habitat III Conference, which may provide another opportunity to advance a rights-based housing approach. The National Law Center on Homelessness & Poverty is helping to coordinate non-governmental strategy for all these opportunities.

At the state level, Rhode Island, Illinois, and Connecticut have all recently passed Homeless Bills of Rights, and California, Colorado, Delaware, Oregon, and other states are considering similar legislation.

Locally, advocates in many cities are working to pass right to housing resolutions or directly implement the right to housing. Advocates in Eugene, OR, have successfully used human rights framing to create political will for a safe camping area for homeless persons. Duluth, MN, passed a resolution recognizing the human right to housing and creating a mandate to develop a local homeless bill of rights. Groups such as Take Back the Land are organizing eviction and foreclosure defenses and building takeovers as direct actions to draw attention to and implement the human right to housing.

Additionally, in 2013, both the American Bar Association and the International Association of Official Human Rights Agencies (the association of state and local human rights commissions) passed resolutions endorsing domestic implementation of the human right to housing.

TIPS FOR LOCAL SUCCESS

Local groups wishing to build the movement to recognize the human right to housing in the United States can use international standards in many different ways to promote policy change, from rallying slogans to concrete legislative proposals.

Groups can start with a non-binding resolution stating that their locality recognizes housing as a human right in the context of the ongoing economic and foreclosure crisis, such as that passed by the Madison, WI, city council in November 2011, which later served as a basis for an \$8 million investment in affordable housing. Advocates can also use international standards to measure local violations of housing rights, as advocates in Sacramento have done around access to water and sanitation. Using international mechanisms, such as the Universal Periodic Review of the United States by the Human Rights Council, can also help cast an international spotlight on local issues.

WHAT TO SAY TO LEGISLATORS

It is important for legislators and their staff to hear their constituents say, “Housing is a human right,” and demand policies to support it as such, to reframe the conversation around housing. In talking about human rights, it is often helpful to start with the United States’ origins and acceptance of these rights in Roosevelt’s “Second Bill of Rights” and the polling data above, and showing the affirmations of this language by USICH and other agencies. Using the recommendations made by human rights monitors reinforces advocates’ messages by lending international legitimacy. ■

FOR MORE INFORMATION

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