Housing is a Human Right

In 1944, Franklin Roosevelt declared that the U.S. had adopted a “second Bill of Rights,” including the right to a decent home. Four years later, the U.S. signed the Universal Declaration of Human Rights, recognizing housing as a human right. Today, polling shows almost 3/4 of all Americans believe that adequate housing is a human right, and 2/3 believe that government programs may need to be expanded to ensure this right. However, U.S. policies have fallen behind international leaders in housing such as France, Scotland, and South Africa. While in the 65 years since the “second Bill of Rights” the U.S. has departed from treating housing as a right, a new movement of U.S. housing advocates has emerged who are using 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. As a result, at both the federal and local level, officials and advocates are discussing housing and homelessness within the context of human rights.

The Government’s Responsibility: Under the human rights framework, every right creates a corresponding duty on the part of the government to respect, protect, and promote the right. In the U.S., we value the right to a fair trial in criminal proceedings, so for those who cannot afford one, the government pays for a lawyer. 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.

The human right to housing consists of seven elements: Security of Tenure; Availability of Services, Materials, and Infrastructure; Affordability; Accessibility; Habitability; Location; and Cultural Adequacy. The government can choose how it will implement the right, including through spending on public housing and voucher programs; 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; or by other means. The right to housing framework gives us a tool for holding the government accountable if not all those elements are satisfied.

The U.S. and International Law on the Right to Housing: The right to housing was first proclaimed in the Universal Declaration of Human Rights in 1948, and then codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. The U.S. has only signed, not ratified the ICESCR, but the State Department recently affirmed “as a signatory, we are committed to not defeating the object and purpose of the treaty.” The U.S. has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR), both of which recognize the right to non-discrimination on the basis of race or other status, including in housing. Additional standards are included in the Habitat Declaration and the U.N. Basic Principles on Development-Based Evictions, which provide language that would significantly improve existing U.S. policies. A number of U.N. experts have recently visited the U.S. and found laws criminalizing homelessness to amount to cruel, inhuman, and degrading treatment, similar to our own 8th amendment standard.
**International Models:** Scotland provides us with a good example of what can be achieved using a right to housing framework. Scotland’s Homeless Act of 2003 includes the right to be immediately housed for all homeless persons and the right to long-term, supportive housing as long as is needed. This includes particularly at risk groups, such as former prisoners, who are excluded from much housing assistance in the U.S. Crucially, this includes an individual right to sue if one believes these rights are not being met. Complementary policies includes a number of other rights, including 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.

**Using Human Rights in the U.S.:** U.S. groups are adopting international mechanisms to promote the housing as a human right framework. Treaty reviews have focused on the disparate racial impact of homelessness, and ordered the U.S. to pursue “adequate and adequately implemented policies to ensure the cessation of this form of de facto and historically-generated racial discrimination” and expressed concern about segregation in housing, affordable housing planning, the right to civil counsel in housing court, lack of domestic violence shelters on Native American land, and the right to return for victims of Hurricane Katrina. In 2009, the top U.N. expert on the right to housing visited 6 cities across the country and issued a report with six pages of recommendations, including ending criminalization of homelessness, a moratorium on demolition of public housing, and increasing resources for affordable housing. During the 2010 Universal Periodic Review (UPR) process, the government held a dozen hearings across the U.S., where housing was “the number one issue brought to the U.S.” At the UPR, the government accepted recommendations to “reinforce...safeguards for the most vulnerable groups such as...the homeless to allow them the full enjoyment of their rights and dignity” and “reduce the number of homeless people.” In April, 2012, the Department of Justice and U.S. Interagency Council on Homelessness issued a report on alternatives to criminalization of homelessness, recognizing that criminalization may violate our obligations under the ICCPR and Convention Against Torture.

At the local level, Madison, WI recently passed an ordinance recognizing housing as a human right and directing the city to hire a planner to develop and implement a plan to ensure the right. Advocates in Sacramento, CA met with the top U.N. expert on water and sanitation and she wrote a letter to the Sacramento mayor condemning the city’s denial of water and sanitation to those in homeless encampments, garnering front page coverage in the local news and helping in their push for safe, legalized tent communities.

**2012- The Year to Realize the Right to Housing:** In 2011, the OCCUPY movement brought a new level of attention to issues of poverty and public use of public space. This year, in places such as Eugene, OR, advocates are now using this attention to redirect policy toward a human rights approach to ending homelessness. 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. And the Maryland Legal Aid Bureau is integrating human rights throughout its advocacy programs, particularly its housing advocacy. Join with the thousands of advocates are using human rights standards to speak on housing issues at the federal, state, and local levels as part of this broader movement for the basic human rights of all!