



The Facts Behind the Faces

A POLICY PAPER FROM THE CHICAGO COALITION FOR THE HOMELESS



Is Housing a Human Right?

by Rene Heybach, Director, Law Project of the Chicago Coalition for the Homeless and Patricia Nix-Hodes, Senior Staff Attorney

Since its inception, the Chicago Coalition for the Homeless has asserted its belief that “housing is a human right in a just society.”¹ But is there really a human right to housing? The answer is emphatically yes. The right to adequate housing is recognized as a basic and fundamental human right in many sources of international human rights law.

I. Where Is the Right to Housing Found?

The right to housing was initially recognized as part of the right to an adequate standard of living, as enunciated in the Universal Declaration of Human Rights, adopted by the United Nations in 1948. All member states of the United Nations are bound to respect and observe the rights contained in the Universal Declaration, which states in part:

“Everyone has the right to a standard of living adequate for the health and well-being of himself [or herself] and of his [or her] family, including food, clothing, *housing* and medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood or other lack of livelihood in circumstances beyond his [or her] control.”² [Emphasis supplied.]



Housing is a human right in a just society.¹ But is there really a human right to housing? The answer is emphatically yes.

The right to adequate housing is contained in many other international human rights instruments, including, principally, the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes:

“[T]he right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing *and housing*, and to the continuous improvement of living conditions.”³ [Emphasis supplied.]

Housing rights language also is contained in Article 17 of the International Covenant on Civil and Political Rights, which protects persons from arbitrary or unlawful interference with their home; Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, which prohibits discrimination in the right to housing; Article 14(2)(H) of the Convention on the Elimination of All Forms of Discrimination against Women, which prohibits discrimination against women, in part to ensure that women enjoy

adequate housing; Article 27(3) of the Convention on the Rights of the Child; and many other sources.

While the United States is not a party to all these instruments, it is a party to the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. With respect to the International Covenant on Economic, Social and Cultural Rights, which contains the strongest and most specific right-to-housing language, the United States has signed but not yet ratified the Covenant. As a signatory, however, the United States cannot defeat the object or purpose of the Covenant, for example by adopting “retrogressive” measures with respect to the economic, social, and cultural rights contained within the Covenant.⁴ Such measures could include, for example, cutting existing critical housing subsidies to provide tax cuts to corporations or repealing legislation that accorded some form of housing rights. Moreover, the right to housing arguably has evolved into “customary international law” to which the United States and other countries are bound even if the countries have not ratified the ICESCR.⁵

Continued on reverse



Continued from reverse

II. What Are the Elements of the Right to Housing?

The United Nations Committee on Economic, Social and Cultural Rights unanimously adopted General Comment No. 4 on the Right to Adequate Housing in 1991.⁶ At that time, the Committee noted the United Nations' estimate of over 100 million homeless persons worldwide. Recent estimates note that more than 2 billion people are inadequately housed.⁷

The General Comment is the most authoritative legal interpretation of what the right to housing actually means. General Comment No. 4 states that the right to housing “should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head,” but rather should be viewed as the right to live in “security, peace and dignity.”⁸ Importantly, the General Comment recognizes that the right to housing should be available to all people “irrespective of income or access to economic resources.”⁹ Further, the Committee recognized that the concept of “ad-

equacy” of housing is crucial to the right to housing and identified a number of components of “adequate housing,” including:

- **Legal security of tenure**— “[A]ll persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats;”
- **Availability of services, materials, facilities and infrastructure**— “[A]n adequate house must contain certain facilities essential for health, security, comfort and nutrition;”
- **Affordability**—Housing costs should not be so high as to compromise the satisfaction of other basic needs;
- **Habitability**—Housing should include adequate space and protection from cold, damp, heat, rain, wind or other threats to health;
- **Accessibility**—Housing should take into account the special needs of groups such as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, the mentally ill and other groups;

- **Location**—Housing must be in a location accessible to employment, health-care, school, childcare and other social services;
- **Cultural adequacy**— Expression of cultural identity and diversity in housing must be enabled.¹⁰

III. What Are the Implications of the Right to Housing in the United States?

The full meaning and content of the right to adequate housing as applied to the United States is complex and simply beyond the scope of this brief article. Suffice it to say these rights do not generally oblige governments immediately to build housing for everyone but rather imply an obligation to move expeditiously toward that objective. In particular, however, obligations are more pressing with respect to homeless persons and to government-endorsed actions that result in homelessness.¹¹

Significantly, according to the Committee on Economic, Social and Cultural Rights, for a government to tolerate the deprivation of basic shelter and housing for

a significant number of its people is a *prima facie* violation of the obligations of the Covenant. Such lack of housing compels some immediate action to address the need.¹² In addition, the right to adequate housing guarantees protection against “forced eviction.”¹³ Government-sponsored, planned efforts to displace significant numbers of people from their homes resulting in homelessness clearly implicate the prohibition of forced eviction.¹⁴ The “transformation” of public housing here in Chicago and elsewhere in the United States has displaced thousands of persons against their will and rendered many persons homeless while triggering international concern for the human rights of these former public housing residents.

To learn about the human right to housing, homelessness and forced evictions, see the following websites:

www.unhabitat.org/unhrp
(United Nations Housing Rights Programme)

www.unhchr.ch/housing
(Office of the High Commissioner on Human Rights)

www.cohre.org
(Centre on Housing Rights and Evictions)

¹ Mission Statement of the Chicago Coalition for the Homeless.

² Universal Declaration of Human Rights, Art. 25(1) (1948).

³ International Covenant on Economic, Social and Cultural Rights, Art. 11(1).

⁴ Vienna Convention on the Law of Treaties, Art. 18, 1155 U.N.T.S. 331, entered into force January 27, 1980. See also Centre on Housing Rights and Evictions (COHRE), *Housing Rights: A Training Programme for NGOs*, at p. 42; COHRE, *Legal Resources for Housing Rights*, p. 13 (noting obligations of signatories to a covenant).

⁵ See *Housing Rights Legislation: Review of International and National Legal Instruments*, United Nations Housing Rights Programme, Report No. 1 (UN-

HABITAT) (Office of the High Commissioner for Human Rights, 2002), at p.2.

⁶ See Center on Housing Rights and Evictions, *Sources #4: Legal Resources for Housing Rights* (June 2000), at p.73.

⁷ COHRE, *Housing Rights: A Training Programme for NGOs*, at p. 16.

⁸ General Comment No. 4: The Right to Adequate Housing, Art. 11(1) of the Covenant, adopted by the U.N. Committee on Economic, Social and Cultural Rights (1991), at ¶ 7.

⁹ Id.

¹⁰ Id., ¶ 8(a)-(g).

¹¹ *Housing Rights Legislation*, p. 21.

¹² Id.

¹³ General Comment No. 4, ¶ 8(a).

¹⁴ COHRE, *Forced Evictions: Violations of Human Rights* (April 2003), pp. 5, 11-17.