

The United States has international obligations to implement the human right to housing

The United States of America recognized the human right to housing in the Universal Declaration of Human Rights, as well as a number of other international covenants and declarations. In 2015, the U.S. accepted, in part, recommendations during the Universal Periodic Review¹ to:

1. progressively recognize the right of all residents in the country to adequate housing, food, health and education, with the aim of decreasing poverty;
2. invest further efforts in addressing the root causes of recent racial incidents and expand its capacity in reducing poverty in neighbourhoods experiencing sub/par public services, including access to adequate housing and public safety;
3. amend laws that criminalize homelessness.²

The COVID-19 crisis has made the U.S.'s failure to implement the human right to housing into a matter of life-or-death

Despite guidance from the Centers for Disease Control to not disperse homeless encampments or place people experiencing homelessness into congregate shelters, and instead to provide individual housing units such as hotel rooms, many communities have failed to do so. San Francisco recently reported that 70 of 100 residents at a shelter had tested positive of COVID-19. This situation will repeat in cities across the country if individual housing units are not immediately provided.

Additionally, while the federal government, states, and cities have enacted partial eviction and foreclosure moratoria during the crisis, the protections are uneven. Worse, when these moratoria end, unless significant supplemental emergency rental assistance is given, there will be an explosion of evictions and foreclosures as accrued rents and mortgages come due, but people have not yet recovered their income.

The United States has failed to honor its treaty obligation to implement the human right to housing

Since the 2015 Universal Periodic Review, the U.S. has received findings and recommendations on its failure to uphold the right to housing or protect the rights of homeless persons from the Special Rapporteur on extreme poverty and human rights.³ To date, no comprehensive or specific action plan addressing the concerns and recommendations raised by any of these human rights monitoring bodies has been proposed by the Administration.

With regards to the housing-specific recommendations accepted by the U.S., since 2015:

1. Homelessness has not been reduced, and is on the rise in many urban areas. U.S. law provides no entitlement to housing assistance for low income people; recognition of a right to even basic shelter is extremely limited to a few communities. Reports of homeless encampments have increased more than 1300% since 2007; ¾ of these have no legal protection and are under constant threat of eviction.
2. Homeless persons remain vulnerable to threats. Despite the lack of adequate housing or even shelter, many homeless people in the United States regularly face the degradation of performing basic bodily functions – sitting, eating, sleeping, and going to the bathroom – in public, a condition which is compounded when they are criminally punished for doing so. The Trump administration published a white paper promoting the use of law enforcement as a response to homelessness and has threatened an executive order to raze encampments in San Francisco.⁴ The Trump administration also replaced the executive director of the United States Interagency Council on Homelessness with Robert Marbut, whose previous work with homeless persons includes forcing them into jail-like “campuses” under the threat of arrest.⁵
3. Housing affordability remains at crisis levels. In only a handful of U.S. jurisdictions can a person working full time at the federal minimum wage afford a one-bedroom apartment. Due to lack of funding, only one quarter of renters eligible for federal housing assistance actually receive it, more than 18 million Americans are paying more than 50% of their income on housing each month, and the federal budget for developing and maintaining public housing and providing for low-income housing

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subsidies has decreased. No binding requirements exist for jurisdictions to plan for and create incentives for the production of sufficient adequate, affordable housing for low-income persons. The Trump Administration has delayed implementation of the Affirmatively Furthering Fair Housing regulations to affirmatively desegregate communities, and has proposed a revised “public charge” rule which will force an estimated 55,000 immigrant families to withdraw from federal housing assistance and face homelessness. Lack of a right to counsel in civil cases concerning housing leads to wrongful evictions and foreclosures.

Suggested Questions for the United States Government

1. Will the U.S. affirm housing as a human right and its obligation to ensure its progressive implementation on a non-discriminatory basis?
2. Will the U.S. implement the recommendations of the Special Rapporteur on extreme poverty and human rights to reduce the criminalization of homelessness?

Suggested Recommendations for the United States Government

1. Require communities to immediately house all people experiencing homelessness in individual housing units and provide the funding to do so, for the duration of the COVID-19 crisis, and ensure no person needs to return to the streets afterward.
2. Provide emergency rental assistance or supplemental income to the levels needed to ensure no person loses their housing during the COVID-19 crisis, or beyond.
3. Affirm housing as a human right and commit to its progressive implementation on a non-discriminatory basis;
4. Increase efforts to protect the rights of homeless persons, including by increasing federal funding incentives for constructive alternative approaches focused on Housing First;
5. Collect statistics on criminalization of homelessness and hate crimes against homeless persons;
6. Broaden its limited definition of homeless persons to enable more people to access benefits, such as to include doubled-up families and those living in motels;
7. Provide for and fund incentives for communities to create a right to counsel in all civil cases involving inadequate housing conditions or the potential loss of housing;
8. Increase access to adequate, affordable housing for extremely low income persons through federal funding and promoting market regulations to increase income-targeted housing development;

For more information:

See our stakeholder report at: <http://nlchp.org/wp-content/uploads/2019/10/Housing-Homelessness-US-UPR-2019.pdf>

See our criminalization report at: <http://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf>

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¹ United Nations General Assembly Human Rights Council Report of the Working Group on the Universal Periodic Review, May 4, 2015.

² Report of the Working Group on the Universal Periodic Review, United States of America, A/HRC/30/12, ¶ 176.309 (July 20, 2015). In explaining its partial acceptance of the above recommendation, the U.S. stated “[t]he U.S. is not a party to the ICESCR, and we understand the rights therein are to be realized progressively ... We continue to improve our domestic laws and policies to promote access to housing, food, health, and safe drinking water and sanitation, with the aim of decreasing poverty and preventing discrimination.” Report of the Working Group on the Universal Periodic Review, United States of America, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/30/12/Add.1, ¶ 12 (Sept. 14, 2015).

³ U.N. Human Rights Council, Report of the U.N. Special Rapporteur on Extreme Poverty and Human Rights on his mission to the United States of America, A/HRC/38/33/Add.1 (2018), available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/33/Add.1 (hereinafter “SR Poverty Report”).

⁴ See Jeff Stein, *As Trump Prepares Big Push on Homelessness, White House Floats New Role for Police*, WASHINGTON POST (Sep. 16, 2019, 7:24 PM).

⁵ See, e.g., Arthur Delaney, *How a Traveling Consultant Helps America Hide the Homeless*, HUFFPOST (Mar. 9, 2015, 9:12 PM, last updated Dec. 6, 2017).