

Affordable Housing: A Legal Right, Not Charity

This December 10, we celebrate International Human Rights Day with the official U.N. theme: “Fighting Poverty: A Matter of Obligation, Not Charity.” Affordable housing is an essential component of that fight against poverty, but it is one which in this country is too often regarded as charity, not a legal obligation on the part of the government.

Without the recognition of housing as a human right in this country, we continue to have pockets of highly concentrated poverty in our cities and in rural areas, with inadequate housing conditions that rival those seen in the third world. Every night in the U.S., over one million people are homeless.

Additionally, there is an even larger, but less visible problem with affordable housing in the U.S. Over 14 million Americans are stretched to their limits, paying over 50% of their income for housing – putting them just a paycheck away from homelessness. In no county in America can a person working a full-time job at minimum wage afford a one-bedroom apartment. Meanwhile, due to huge budget cuts to federal and state assistance programs over the past two decades, housing assistance requests are growing to waiting times of two years or more, and some cities have simply closed the request lists – in effect denying the growth of the problem.

Recognizing the human right to housing in the U.S. would change the dialogue on housing issues in two important ways.

First, by the human right to housing, we would recognize that every person, without discrimination on the basis of race, sex, economic or other status, deserves access to adequate shelter. International law sees a violation of this non-discrimination principle in both policies with discriminatory intent and those with discriminatory impact, unlike U.S. law which for the most part only outlaws intentional discrimination. Just this past summer, as a result of the advocacy of a number of U.S. activists, the UN Human Rights Committee concluded the U.S. was in violation of the right of non-discrimination because while only 12% of the population is African American, African Americans make up 50% of the homeless population. The Committee called upon the government to take steps to remedy this ongoing violation.

Second, as the theme of Human Rights Day implies, every right creates a corresponding duty on the government to ensure that right is upheld. In the U.S., we value the right to a fair trial, so for those who cannot afford it, 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 put ultimate responsibility on the government for ensuring all people have access to adequate housing. Under human rights law, adequacy of housing is broken down into seven elements: Security of Tenure; Availability of Services, Materials, and Infrastructure; Affordability; Accessibility; Habitability; Location; and Cultural Adequacy. It’s more than just a roof over your head - the government can choose whether this should be through public housing, voucher programs such as Section 8, incentives for private development of affordable housing, or other means, but it has to fulfill all of these elements.

We have many of these frameworks in place already – but they are being inadequately funded and implemented.

A recent demonstration of how viewing housing as a right can alter the framework can be seen in the approach FEMA, the Federal Emergency Management Agency, to the housing vouchers it issued to victims of Hurricane Katrina. Tens of thousands of displaced people were set to be evicted at the original 12-month deadline of housing support unless they filled out long forms with onerous documentation requirements – essentially designed to weed people out of the process. However, through the dedicated advocacy of a large number of groups, Katrina victims are increasingly being seen as internally-displaced persons with a right to assistance, not as disposable objects of temporary charity. Thus, FEMA dropped its documentation requirements and essentially conceded that people were entitled to ongoing assistance, and residents were able to avoid eviction.

The key is to expand this view of housing as a right from just victims of natural disasters to all who are experiencing housing problems, regardless of cause. Bright spots in this campaign are being created across the country. Los Angeles recently adopted a ten-year plan to end homelessness that recognizes housing as a human right. Cook County (Chicago) adopted a resolution in support of the human right to housing, leading to increased state resources for low-income housing for the city.

Activists are working on these issues every day, but much more needs to happen in order to see our country properly upholding the right to housing. At the local, state, and federal level, groups can work on resolutions and policy declaring and implementing a right to housing. We must work to restore the funds for affordable housing that have been slashed over the past two decades. Most importantly, we must change the model of assistance from one which prevents people from accessing those resources to one of active outreach to needy individuals and families – to those whose *right* to housing is not being fulfilled.

In other words, we need to teach our government that its duty to fight poverty is a matter of obligation, not charity.

-Eric Tars is the Human Rights Staff Attorney at the National Law Center on Homelessness & Poverty, which chairs the Housing Caucus of the US Human Rights Network. Additional materials on the human right to housing can be found at www.nlchp.org.